

# EXHIBIT 11

Eric Boelhouwer

American Family v. Electrolux

April 3, 2014

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

AMERICAN FAMILY MUTUAL  
INSURANCE COMPANY,  
Plaintiff, CIVIL ACTION  
vs. FILE NO. 11CV000678  
ELECTROLUX HOME PRODUCTS,  
INC.,

Defendant.

## DEPOSITION OF

ERIC J. BOELHOUWER, PH.D., CSP

Thursday, April 3, 2014  
9:15 a.m.

4700 Best Road  
Atlanta, Georgia

Renda K. Cornick, RPR, CCR-B-909

REGENCY-BRENTANO, INC.  
Certified Court Reporters  
13 Corporate Square - Suite 140  
Atlanta, Georgia 30329  
404-321-3333

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<p>1 Boelhouwer 2 Exhibit Description Page 3 19 CPSC Safety Alert Overheated Clothes 4 Dryers Can Cause Fires 102 5 20 FEMA Topical Fire Report Series 6 Clothes Dryer Fires in 7 Residential Buildings (2008-2010) 8 Dorris &amp; Associates D7 104 9 10 21 NFPA Home Fires Involving 11 Clothes Dryers and Washing Machines 12 Dorris &amp; Associates D8 108 13 14 22 Consumer Opinion Forum Survey #3 15 Clothes Dryer Maintenance 16 September 2010 17 Dorris &amp; Associates D9 108 18 23 U.S. Consumer Product Safety 19 Commission: An Evaluation of Using 20 Indicators to Inform Consumers of 21 Clothes Dryer Status June 1, 2011 22 Dorris &amp; Associates D10 111 23 24 Whirlpool Use and Care Guide 24 Dorris &amp; Associates D11 113 25 26 25 AHAM Analysis of Industry Data on Clothes Dryer Fire Incidents August 2002 Dorris &amp; Associates D15 118 27 26 Frigidaire Laundry Center Owner's Guide Dorris &amp; Associates P10 153 28 29 (Original exhibits enumerated above have been 30 attached to the original transcript.) 31 32 33 34 35</p>	<p>1 (Reporter disclosure made pursuant to 2 Article 10.B of the Rules and Regulations of the 3 Board of Court Reporting of the Judicial Council 4 of Georgia.) 5 (Boelhouwer Exhibits 1 through 14 were 6 marked for identification.) 7 ERIC BOELHOUWER, 8 having been first duly sworn, was examined and 9 testified as follows: 10 EXAMINATION 11 BY MS. BIERNAT: 12 Q. Can you state your name for the record. 13 A. Eric Boelhouwer. 14 Q. Mr. Boelhouwer, have you had your 15 deposition taken before? 16 A. No, ma'am. I have not had my deposition 17 taken before. 18 Q. Let me tell you a little bit about it. We 19 are here taking your deposition in a case, 20 consolidated cases called American Family Mutual 21 versus Electrolux. This is actually eight cases that 22 have been consolidated together. You have been 23 identified and disclosed as an expert in these cases. 24 I am sure you spoke with the plaintiff's 25 attorney in this case about the deposition and how it</p>
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<p>1 APPEARANCES OF COUNSEL 2 3 On behalf of the Plaintiff: 4 DANIEL W. BOERIGTER, Esq. 5 Yost &amp; Baill, LLP 6 Suite 2050 7 220 South Sixth Street 8 Minneapolis, Minnesota 55402 9 612-338-6000 10 dboerigter@yostbaill.com 11 12 On behalf of the Defendant: 13 REBECCA BIERNAT, Esq. 14 Tucker Ellis, LLP 15 One Market Plaza, Steuart Tower 16 Suite 700 17 San Francisco, California 94105 18 415-617-2223 19 rebecca.biernat@tuckerellis.com 20 21 --- 22 23 24 25</p>	<p>1 will go. I am here to ask you questions, you are here 2 to answer them. I generally just get one shot at this 3 with you today, so it is important for me to get full 4 and complete answers from you. If you do not 5 understand a question I have asked, please let me know 6 and I will rephrase it, be happy to do so. I will 7 assume, though, you have understood the question if 8 you answer it. 9 Oftentimes this can get into a 10 conversation-type setting, but it is important to 11 remember there is a court reporter taking down 12 everything we say as we say it. So in that respect it 13 is important to speak slowly, clearly, audibly with 14 words instead of huh-uh or uh-huh or a shake of the 15 head. It is also important to allow me to finish my 16 question before you complete your answer and for me to 17 allow you to complete your answer before I go to my 18 next question so we have a clean transcript. I will 19 probably strive to take a break every hour to hour and 20 a half. I assume we will be breaking for lunch. But 21 if you need a break before that, it is not an 22 endurance contest, please let me know and we will 23 stop. I am the one with a large coffee here so I am 24 assuming I might have to go first. 25 I guess you have taken an oath to tell the</p>

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<p>1 truth under the penalty of law. Do you understand you</p> <p>2 have taken the same oath as if you were testifying in</p> <p>3 a court of law?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Is there any reason why we cannot go</p> <p>6 forward with your deposition today?</p> <p>7 A. No, ma'am.</p> <p>8 Q. Boelhouwer, is that how you say your</p> <p>9 name?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. You have been identified as an expert</p> <p>12 witness. What is your understanding of what area of</p> <p>13 expertise you have been identified in?</p> <p>14 A. My understanding is as it relates to these</p> <p>15 matters I have to address the warnings of instructions</p> <p>16 related to these products.</p> <p>17 Q. And address them in what manner?</p> <p>18 A. With regard to the content of what the</p> <p>19 information is that they are trying to communicate to</p> <p>20 consumers who would be the target audience for these</p> <p>21 products.</p> <p>22 Q. And you are here specifically for eight</p> <p>23 specific cases. But you have -- let me back up.</p> <p>24 Where do you work?</p> <p>25 A. I work at Dorris &amp; Associates</p>	<p>1 Q. Can you describe some of those for me?</p> <p>2 A. When I was first hired into BASF they have</p> <p>3 a rotational program, so I had three six-month</p> <p>4 assignments. One was in North Carolina, one in New</p> <p>5 Jersey, one in Texas.</p> <p>6 Following my assignment in Texas, I moved</p> <p>7 to Baton Rouge, Louisiana; and I was a chemical</p> <p>8 engineer in a manufacturing facility.</p> <p>9 Q. So was your employment at BASF generally</p> <p>10 as a chemical engineer?</p> <p>11 A. Generally, yes.</p> <p>12 Q. Can you describe generally what you did as</p> <p>13 a chemical engineer for BASF?</p> <p>14 A. Yes, ma'am. It would relate to</p> <p>15 production. Typically, especially in the later years,</p> <p>16 in Baton Rouge that my time was spent interfacing with</p> <p>17 the operators, maintaining or providing direction of</p> <p>18 how to operate the plants under my direction, and also</p> <p>19 for some aspects of the safety associated with those</p> <p>20 production facilities.</p> <p>21 Q. When you say operators, operators of their</p> <p>22 plants?</p> <p>23 A. Yes, ma'am. The operators would -- it was</p> <p>24 our term for the technicians or the hourly employees.</p> <p>25 Q. BASF is a chemical company?</p>
Page 10	Page 12
<p>1 International.</p> <p>2 Q. What is your job title there?</p> <p>3 A. Consultant.</p> <p>4 Q. How long have you worked there?</p> <p>5 A. Approximately four years.</p> <p>6 Q. What did you do before that?</p> <p>7 A. I was a Ph.D. student at Auburn</p> <p>8 University.</p> <p>9 Q. I will look at your CV that was marked.</p> <p>10 That will probably help. Where did you go to</p> <p>11 university?</p> <p>12 A. Which time?</p> <p>13 Q. The first time, college, undergrad.</p> <p>14 A. I went to Georgia Institute of Technology.</p> <p>15 Q. What degree did you obtain from there?</p> <p>16 A. Chemical engineering.</p> <p>17 Q. You graduated in 1998 with that?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. After that, where did you go? Did you</p> <p>20 work after that?</p> <p>21 A. Yes. I went to work in industry for BASF</p> <p>22 Corporation.</p> <p>23 Q. What did you do at BASF?</p> <p>24 A. I had a variety of roles over a number of</p> <p>25 years at BASF Corporation.</p>	<p>1 A. Yes, ma'am. Global chemical company.</p> <p>2 Q. You left BASF and went to Tulane?</p> <p>3 A. No. I attended Tulane's MBA school at</p> <p>4 night while I was still at BASF.</p> <p>5 Q. And how long were you at BASF?</p> <p>6 A. Approximately seven years.</p> <p>7 Q. Why did you decide to get your BA, or MBA,</p> <p>8 sorry?</p> <p>9 A. It was an opportunity through the</p> <p>10 corporation that they were providing a benefit to</p> <p>11 employees that you could attend school, that they</p> <p>12 would pay the tuition for you.</p> <p>13 Q. So you were at BASF from 1998 to about</p> <p>14 2005?</p> <p>15 A. I believe towards the end of 2006.</p> <p>16 Q. 2006. Okay. And then what did you do</p> <p>17 after you left BASF?</p> <p>18 A. We moved from Louisiana to Auburn,</p> <p>19 Alabama, for me to begin graduate school.</p> <p>20 Q. Graduate school in what?</p> <p>21 A. Industrial and systems engineering with a</p> <p>22 focus in human factors.</p> <p>23 Q. Why did you leave BASF?</p> <p>24 A. At the time I felt that it was something</p> <p>25 else that I wanted to do with my career, that I wanted</p>

<p style="text-align: right;">Page 21</p> <p>1 our recommendations to the revisions of the content in</p> <p>2 the manual to the client, whether in terms of the</p> <p>3 verbiage used or any pictograms or other symbols they</p> <p>4 may want to consider.</p> <p>5 Q. And I would like to ask you about your</p> <p>6 process in developing on-product labels for a</p> <p>7 particular product. You don't have to tell me exactly</p> <p>8 what the product is. But do you have an example that</p> <p>9 you have worked on in the last year where you created</p> <p>10 an on-product label?</p> <p>11 A. Generally clients come to us with</p> <p>12 something they have already drafted or created for</p> <p>13 products that are in the marketplace. We would, using</p> <p>14 our background and expertise, evaluate the content of</p> <p>15 what they provided and provide them recommendations.</p> <p>16 Q. So then I guess in your time ever at</p> <p>17 Dorris &amp; Associates have you ever created an</p> <p>18 on-product label?</p> <p>19 A. I provide recommendations to clients as to</p> <p>20 the format, content, and layout of on-product labels.</p> <p>21 Q. The first one you mentioned is the child</p> <p>22 restraint system. What did you do with respect to</p> <p>23 that product?</p> <p>24 A. I am not sure exactly how far I can go.</p> <p>25 We have confidentiality agreements with our clients.</p>	<p style="text-align: right;">Page 23</p> <p>1 exemplar product?</p> <p>2 A. Outside of litigation?</p> <p>3 Q. Yes.</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. This is all outside of litigation I am</p> <p>6 talking about.</p> <p>7 What is the first thing you do once you</p> <p>8 get an assignment to advise on the format, content,</p> <p>9 and layout of an on-product label and instruction</p> <p>10 manual?</p> <p>11 A. We review the materials that have been</p> <p>12 provided to us by the client in terms of what their</p> <p>13 instructions -- we try to identify their concerns. We</p> <p>14 rely on them, the client, to identify the hazards</p> <p>15 associated with their product.</p> <p>16 Q. So you reviewed the material they provide</p> <p>17 you. You identify their concerns by what, just</p> <p>18 talking with them?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Do you do any research yourself about the</p> <p>21 product or the type of product?</p> <p>22 A. Depending on the product class, it may be</p> <p>23 possible to do some research for that particular</p> <p>24 product.</p> <p>25 Q. What do you mean by that?</p>
<p style="text-align: right;">Page 22</p> <p>1 Generally speaking --</p> <p>2 Q. We can talk about something in general.</p> <p>3 That's fine. I just want to have some point that we</p> <p>4 can base our discussion on. If you had a product like</p> <p>5 a child restraint system -- well, let's discuss a</p> <p>6 product that you have created or you have revised a</p> <p>7 format, content, and layout of the on-product label.</p> <p>8 Can you give me a broad, general example of one so you</p> <p>9 don't get into confidentiality concerns?</p> <p>10 A. Generally, a client would approach us.</p> <p>11 They would have drafted an instruction manual. They</p> <p>12 would have a product that they were trying to bring to</p> <p>13 market, for example. They may have already drafted</p> <p>14 some language that they would like to present on the</p> <p>15 product.</p> <p>16 Q. And so you have this, let's say, it is a</p> <p>17 product that is smaller than a bread box, do you get</p> <p>18 the product itself from your client?</p> <p>19 A. It is going to depend on the individual</p> <p>20 matter. If it is small enough for it to be shipped</p> <p>21 and received and the product actually exists at the</p> <p>22 time we are drafting these -- or preparing our</p> <p>23 analysis of their materials, then yes, they may</p> <p>24 provide us an exemplar product.</p> <p>25 Q. Have you ever yourself received an</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Some products that clients are bringing to</p> <p>2 market don't currently exist in the market so there is</p> <p>3 no peer product.</p> <p>4 Q. Do you do any independent research about</p> <p>5 the hazards of the product?</p> <p>6 A. Generally speaking, no, ma'am. We rely on</p> <p>7 the client to identify the hazards associated with</p> <p>8 their product and perform the hazard analysis for</p> <p>9 their product.</p> <p>10 Q. When you say generally speaking, have you</p> <p>11 ever done independent research to identify the hazards</p> <p>12 of a product?</p> <p>13 A. Outside of litigation, as I sit here, I do</p> <p>14 not recall doing any independent research to identify</p> <p>15 the hazards of a product.</p> <p>16 Q. Have you done any independent research</p> <p>17 about any possible requirements by any governmental</p> <p>18 agency or any other agency for the content or format</p> <p>19 or the layout of a warning, I mean, on-product label</p> <p>20 or an instruction manual?</p> <p>21 A. As I understand your question as it</p> <p>22 relates to government entities which I would consider</p> <p>23 the Consumer Product Safety Commission and OSHA and</p> <p>24 others to fall in that category, yes, we would</p> <p>25 certainly want whatever our recommendations regarding</p>



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1 that product to be in line with the regulatory  
2 requirements provided by those entities.

3 Q. Okay. So do you determine which entities'  
4 or agencies' regulations would apply to that product?

5 A. Generally speaking, no. That is usually  
6 identified for us by the class of the product that is  
7 being considered.

8 Q. It is identified by the client that comes  
9 to you? I don't understand.

10 A. It is going to be very product specific.  
11 So if you are selling an industrial product, you more  
12 likely than not would not need to comply -- you would  
13 only need to comply with OSHA regulations that may or  
14 may not pertain to your product.

15 Q. Right. But, well, my question is who  
16 makes the determination about which regulations would  
17 apply to that product. Do you identify the product as  
18 a certain class and say, okay, OSHA has requirements  
19 we need to make sure are followed?

20 A. There is a lot of factors that go into  
21 that. For a given product, what the product is, what  
22 its intended use is, who may or may not use the  
23 product once it is in the market. Generally I would  
24 think there's a collaborative effort that the client  
25 would identify what they believe is applicable to that

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1 given product.

2 Q. So as part of your expertise, though, to  
3 know which regulations apply to which products, if you  
4 had somebody who was naive in that area and came to  
5 you with their product, would it be your understanding  
6 as the consultant at Dorris & Associates who they  
7 hired that you would know which regulations needed to  
8 be met?

9 A. If they could identify for us the nature  
10 of their product, who their intended audience is going  
11 to be, what it is going to be used for, if we got  
12 information from the client to help them to -- to help  
13 our understanding of what the intended use of the  
14 product is going to be and who the target audience is,  
15 then it may -- it may become -- it may clarify what  
16 category of product it is. And then based on that  
17 clarification, then you could say, yes, this product,  
18 hypothetically, would be best addressed by Consumer  
19 Product Safety regulation. By that process you have  
20 eliminated the others.

21 Q. Okay. Maybe I am making it more  
22 complicated than what I am trying to ask. Is it  
23 within your expertise to determine which agency  
24 determines what product if I come to you with a  
25 product and say, look, I developed this thing in my

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1 garage and I would like to make sure I have all the  
2 proper warnings on it so I don't get a lawsuit later  
3 on, is that within your expertise to know which  
4 agencies we need to comply with?

5 A. If I was provided enough information  
6 relative to that product and the use of that product,  
7 yes, I could assist in identifying what set of  
8 regulations that may be applicable. There also may be  
9 times when there is not enough information for me to  
10 make that determination.

11 Q. Okay. And do you ever do an analysis  
12 about what the product is, what its intended use is,  
13 who its intended audience is when you are performing  
14 your work?

15 A. Generally that would fall outside the  
16 scope of my assignment. The client would provide that  
17 information to us or clarification of those -- of that  
18 information for us. And so generally we would focus  
19 on format, the content, and the layout of their safety  
20 communications.

21 Q. So now related to litigation, would you  
22 say that your 60-40 break up, that's consistent over  
23 the four years you have worked for Dorris &  
24 Associates?

25 A. It fluctuates on a yearly basis, depending

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1 on what assignments come in. But generally, I would  
2 think that it would be in that approximate range.

3 Q. These eight cases here are not the first  
4 time you have been engaged to review and opine on the  
5 Electrolux dryer warnings; is that correct?

6 A. I am not sure which matters have been  
7 disclosed at this point.

8 Q. Okay. Nor am I. There is a few that I do  
9 know of. Let me get the names of them.

10 MR. BOERIGTER: Are you talking about  
11 personally or Dorris & Associates?

12 MS. BIERNAT: I am talking about Eric and  
13 any other work he may have performed on the  
14 Electrolux cases even though he was not the  
15 person actually testifying. I know there is at  
16 least one case.

17 Q. (By Ms. Biernat) Haroutounyan, have you  
18 heard of that case before?

19 A. Yes, ma'am.

20 Q. Did you work on that case?

21 A. Yes, ma'am.

22 Q. You were not the identified expert,  
23 though, correct?

24 A. No, ma'am.

25 Q. What did your work in that case consist

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<p>1 of?</p> <p>2 A. Reviewing the materials provided by the</p> <p>3 client, discussions with the retained expert, and</p> <p>4 assistance with preparation of the report.</p> <p>5 Q. What did you say, review materials</p> <p>6 provided by the client, second one was what?</p> <p>7 A. Discussions with the testifying expert.</p> <p>8 Q. And assistance in preparing the report.</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Although I understand you typed the</p> <p>11 report.</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. Do you recall if that was your first</p> <p>14 assignment to any Electrolux dryer matters?</p> <p>15 A. Again, I am not sure what has been</p> <p>16 disclosed. I don't recall if that was the first time</p> <p>17 we were contacted with respect to Electrolux dryers or</p> <p>18 not.</p> <p>19 Q. Do you recall about when that was, your</p> <p>20 first assignment with respect to Electrolux was?</p> <p>21 A. I believe it was sometime in 2012.</p> <p>22 Q. What part of 2012?</p> <p>23 A. I don't recall.</p> <p>24 Q. So it has been two years you have been</p> <p>25 working on these cases?</p>	<p>1 started in 2007 and continued off and on through the</p> <p>2 end of 2010 when I came on full time.</p> <p>3 Q. You are a certified safety professional.</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. What does that entail?</p> <p>6 A. There is an exam that you have to take.</p> <p>7 It is based on your time in the industry, work</p> <p>8 experience, and other factors that they use to</p> <p>9 determine that you have the prerequisites to be able</p> <p>10 to sit for the exam.</p> <p>11 Q. Is there a general length of time you have</p> <p>12 to be in the industry in order to be able to get that</p> <p>13 affiliation?</p> <p>14 A. I believe it is five years of work</p> <p>15 experience.</p> <p>16 Q. It says Associate Human Factors</p> <p>17 Professional. What does that entail?</p> <p>18 A. Similar to the certified safety</p> <p>19 professional. There is prerequisites then you sit for</p> <p>20 an exam.</p> <p>21 Q. When did you get that?</p> <p>22 A. I believe I obtained that certification</p> <p>23 roughly the same time I obtained my master's degree in</p> <p>24 industrial systems engineering.</p> <p>25 Q. How about American Institute of Chemical</p>
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<p>1 A. Two years ago we were made aware of</p> <p>2 litigation related to dryers, Electrolux dryers.</p> <p>3 Q. So this Haroutounyan report I have is from</p> <p>4 April 27, 2012, does that sound about right?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. So we are coming up on two years.</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. I may have another report here. Have you</p> <p>9 heard of the Brennan case?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. And then you drafted the report, or you</p> <p>12 signed the report in that case?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. You did not testify in that case.</p> <p>15 A. My understanding of that case -- I signed</p> <p>16 the report and after that, I am not aware of the</p> <p>17 status of that case.</p> <p>18 Q. Let me go back to your CV. I kind of got</p> <p>19 off track a little bit. So you worked four years at</p> <p>20 Dorris &amp; Associates full time, correct?</p> <p>21 A. I started at Dorris &amp; Associates full time</p> <p>22 at the end of 2010.</p> <p>23 Q. And how long did you do an internship for</p> <p>24 them for?</p> <p>25 A. I believe my time as a part-time employee</p>	<p>1 Engineering, Senior Member. When did you become a</p> <p>2 senior member?</p> <p>3 A. Again, my understanding, that's based on</p> <p>4 time in the industry. I believe that's five years.</p> <p>5 So I believe that would have been approximately five</p> <p>6 years after I graduated from undergrad at Georgia</p> <p>7 Tech.</p> <p>8 Q. Got it. Okay.</p> <p>9 American Society -- are you still an</p> <p>10 active member of the American Institute of Chemical</p> <p>11 Engineers?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. American Society of Safety Engineers,</p> <p>14 professional member, when did you become a</p> <p>15 professional member?</p> <p>16 A. That category -- my understanding is that</p> <p>17 category of membership is based on accomplishing the</p> <p>18 certified safety professional credential. Once you</p> <p>19 become a certified safety professional, then you can</p> <p>20 apply to the society and they can change your status.</p> <p>21 Q. Then Human Factors and Ergonomics Society,</p> <p>22 you are a member of that?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. The National Safety Council, you are a</p> <p>25 member of that, or you are affiliated with that</p>

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<p>1 somehow?</p> <p>2 A. National Safety Council is set up a little</p> <p>3 differently. Dorris &amp; Associates is a member of the</p> <p>4 National Safety Council. I believe that we don't hold</p> <p>5 individual -- I don't hold an individual membership</p> <p>6 with the National Safety Council.</p> <p>7 Q. Society of Automotive Engineers?</p> <p>8 A. Yes. I hold active membership.</p> <p>9 Q. Are you an automotive engineer?</p> <p>10 A. No, ma'am.</p> <p>11 Q. So can anybody join the Society of</p> <p>12 Automotive Engineers?</p> <p>13 A. I don't recall what the requirements are</p> <p>14 to join the Society of Automotive Engineers.</p> <p>15 Q. And then Society for Chemical Hazard</p> <p>16 Communication, so you are currently on the Board of</p> <p>17 Directors for that.</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. Is that a national entity?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. The institute of industrial engineers, you</p> <p>22 are a member of that?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. Let me ask you about some of your recent</p> <p>25 publications. The latest publication in 2013, Effects</p>	<p>1 A. Investigating the effects of symbols,</p> <p>2 pictograms, associated with this implementation of the</p> <p>3 globally harmonized system. So associated with GHS</p> <p>4 which my understanding at time was it was going to be</p> <p>5 coming down the pike and be in the future at that time</p> <p>6 required by OSHA. So hazard communication in the U.S.</p> <p>7 would be changing over time.</p> <p>8 Q. Are you talking about with respect to</p> <p>9 industrial chemicals?</p> <p>10 A. Yes, ma'am. With respect to industrial</p> <p>11 chemicals and labeling.</p> <p>12 Q. Chemicals and labeling. Okay. So would</p> <p>13 you say that the majority or all of your publication</p> <p>14 has related to industrial chemical and chemicals and</p> <p>15 labeling?</p> <p>16 A. No, ma'am.</p> <p>17 Q. Let me ask you this question, though. For</p> <p>18 industrial chemical safety and labeling, you mentioned</p> <p>19 that's a harmonized field, correct, or it is a</p> <p>20 harmonized system?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. By that you mean what?</p> <p>23 A. The United Nations undertook an initiative</p> <p>24 starting approximately 20 years ago to identify that</p> <p>25 virtually every country in the world had its own</p>
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<p>1 of pictograms on safety data sheets and labels.</p> <p>2 What are safety data sheets?</p> <p>3 A. Industrial chemical products have material</p> <p>4 safety data sheets. The OSHA regulations as it</p> <p>5 pertains to chemical products are changing and so</p> <p>6 going forward those documents will be known as safety</p> <p>7 data sheets.</p> <p>8 Q. The next is a presentation, is that right,</p> <p>9 or is that a publication?</p> <p>10 A. I believe those are publications.</p> <p>11 Q. First one, Journal of Safety Research, was</p> <p>12 this a peer-reviewed article?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. The next 2010, Effects of GHS Hazard</p> <p>15 Category, Signal Words, and Pictograms on an</p> <p>16 Individual's Assessment of Perceived Risk. That was</p> <p>17 published for a conference.</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. What was the general subject matter of</p> <p>20 that paper?</p> <p>21 A. It is similar subject matter as to the</p> <p>22 previous publication and it is by experiments,</p> <p>23 revolving around hazard communication as it related to</p> <p>24 my dissertation research.</p> <p>25 Q. What was your dissertation research?</p>	<p>1 regulations with regards to chemical safety</p> <p>2 communications. And it made it very difficult for</p> <p>3 manufacturers to make sure they addressed all of the</p> <p>4 individual country requirements. So efforts were made</p> <p>5 on a global basis to try to align those safety</p> <p>6 communications over time.</p> <p>7 Q. And are they aligned now, or harmonized</p> <p>8 now?</p> <p>9 A. No, ma'am.</p> <p>10 Q. They are still working towards that?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Are they harmonized within the United</p> <p>13 States?</p> <p>14 A. At this point in time we are in a</p> <p>15 transition period in the United States. So you may</p> <p>16 still comply with the previous OSHA regulation up</p> <p>17 until June 2016 or you may comply with the revised,</p> <p>18 the amended regulation which will be in effect in</p> <p>19 2016.</p> <p>20 Q. There is regulation to comply with,</p> <p>21 correct, across the United States?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Now, you said that not all your</p> <p>24 publications have been related to industrial chemical</p> <p>25 safety and labeling. Can you identify which ones were</p>



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<p>1 not or are not?</p> <p>2 A. May I have a document to look at?</p> <p>3 Q. Yes.</p> <p>4 A. Thank you.</p> <p>5 The next item down, Piper, Davis, and</p> <p>6 Boelhouwer regards safety symbols, so that is not</p> <p>7 related to chemical hazard communication.</p> <p>8 Q. So safety symbols with respect to what?</p> <p>9 A. That was a variety of safety symbols that</p> <p>10 was an interactive process using some computer</p> <p>11 simulation and some other focus group means to try to</p> <p>12 get other input from a variety of individuals as to</p> <p>13 what those individuals thought the pictogram should</p> <p>14 look like for a given hazard.</p> <p>15 Q. Now, this is 2010. Did you draft this</p> <p>16 while you were a graduate student?</p> <p>17 A. I assisted with this paper while I was a</p> <p>18 graduate student. So yes.</p> <p>19 Q. Any others that do not relate to</p> <p>20 industrial chemical safety and labeling?</p> <p>21 A. Yes. Further down, Piper Davis and</p> <p>22 Boelhouwer, 2009, again, related to the paper we just</p> <p>23 discussed for 2010 which is, again, outside of</p> <p>24 chemical hazard communication.</p> <p>25 Q. The one below that as well?</p>	<p>1 A. No, ma'am.</p> <p>2 Q. Can you tell me how much time you spent on</p> <p>3 each case?</p> <p>4 A. If we look at the billing for each matter,</p> <p>5 I should be able to tell you how much time was spent</p> <p>6 on each matter.</p> <p>7 Q. So we have the deposition notice marked as</p> <p>8 Exhibit 1, the CV Exhibit 2. So it would be within</p> <p>9 each case, correct, the individual bill?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. So before we get into this, any of the</p> <p>12 individual cases, when you received this assignment</p> <p>13 for these -- did you receive the assignment for the</p> <p>14 eight cases at one time?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. When you proceeded to work on them, did</p> <p>17 you work on the cases individually or did you work on</p> <p>18 general, common matters together and then work on the</p> <p>19 individual cases?</p> <p>20 A. It is difficult to say I separated them</p> <p>21 out completely because they are all going on</p> <p>22 concurrently.</p> <p>23 Q. Did you separate them out or you did not</p> <p>24 separate them out? I am sorry.</p> <p>25 A. For billing purposes, I would try to work</p>
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<p>1 A. Yes, ma'am.</p> <p>2 Q. And then how about the Dorris, Valimont,</p> <p>3 and you, Boelhouwer, that last publication from 2007.</p> <p>4 A. That publication related to degraded</p> <p>5 on-product warnings for forestry equipment and that</p> <p>6 did not include chemical hazard.</p> <p>7 Q. Forestry equipment?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. So these are all, except for the first</p> <p>10 one, first publication you have here, the rest of the</p> <p>11 publications are seminars, correct?</p> <p>12 A. My review of the other publications is</p> <p>13 that they were at conferences.</p> <p>14 Q. In Santa Monica every year?</p> <p>15 A. No, ma'am. That is not in Santa Monica</p> <p>16 every year. The main office for the human factors is</p> <p>17 in Santa Monica, California.</p> <p>18 Q. So you didn't get to go to Santa Monica</p> <p>19 every year.</p> <p>20 A. Based on my recollection, I haven't had</p> <p>21 the opportunity to go to Santa Monica.</p> <p>22 Q. Let me ask you about just generally about</p> <p>23 these cases, these eight cases at issue here today.</p> <p>24 Can you tell me how much time you spent on all of them</p> <p>25 together?</p>	<p>1 on one matter for a set period of time, set it aside,</p> <p>2 work on the next matter for a certain period of time.</p> <p>3 But there are certainly similarities across these</p> <p>4 matters.</p> <p>5 Q. And is it fair to say that your opinions,</p> <p>6 you have the same opinions for all eight cases, you</p> <p>7 may have additional opinions for individual cases but</p> <p>8 your opinions across all eight are generally the same?</p> <p>9 A. My understanding is that my assignment was</p> <p>10 to evaluate the language provided by Electrolux. That</p> <p>11 language provided was similar in all eight of these</p> <p>12 matters. So my analysis for all eight matters was</p> <p>13 similar.</p> <p>14 Q. In the course of your work in these cases,</p> <p>15 have you ever spoken with any of the homeowners?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Have you spoken with any of the insurance</p> <p>18 adjusters?</p> <p>19 A. As it relates to these eight matters, no,</p> <p>20 ma'am.</p> <p>21 MS. BIERNAT: Let's stop for a second.</p> <p>22 (Recess from 10:05 a.m. to 10:28 a.m.)</p> <p>23 Q. (By Ms. Biernat) So let me ask you these</p> <p>24 questions. Let's talk about general questions real</p> <p>25 quick.</p>

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<p>1 All right. Let's talk about warnings in</p> <p>2 general. One of the things you do outside of</p> <p>3 litigation work is to advise on the format, content,</p> <p>4 and layout of warnings.</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. And warnings on products, correct?</p> <p>7 A. Generally speaking, yes, ma'am.</p> <p>8 Q. What is the goal of a warning?</p> <p>9 A. The goal of a warning generally speaking</p> <p>10 is to communicate safety information.</p> <p>11 Q. Okay. Are there any standards applicable</p> <p>12 to develop or select warnings?</p> <p>13 A. As I understand your question, there are</p> <p>14 no standards that would cover all products related to</p> <p>15 the development of safety communications.</p> <p>16 Q. What do you consider yourself an expert</p> <p>17 in?</p> <p>18 A. I consider myself in safety</p> <p>19 communications, human factors, and part of that is</p> <p>20 warnings and instructions.</p> <p>21 Q. Can you give me a brief definition of what</p> <p>22 human factors is?</p> <p>23 A. Yes. Human factors relates to how humans</p> <p>24 interact with systems.</p> <p>25 Q. And the safety communications, is that a</p>	<p>1 ANSI 535.4 provides a voluntary consensus standard for</p> <p>2 on-product labeling for consumer products in general.</p> <p>3 A. In terms of formatting and layout.</p> <p>4 Q. Okay. Formatting and layout only.</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. Is there any standard for content of</p> <p>7 warnings, either the actual content or general</p> <p>8 description of the content?</p> <p>9 A. There are some products that have</p> <p>10 regulated language for them and as we discussed</p> <p>11 earlier industrial chemical products do have</p> <p>12 regulatory -- may have some regulatory language that</p> <p>13 applies to them. Also certain classes of consumer</p> <p>14 products under the Consumer Product Safety Commission</p> <p>15 would also have on-product labels required language</p> <p>16 that may be applicable to a given product.</p> <p>17 Q. So particular products may have</p> <p>18 statutorily required language.</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. How about as a general concept in the</p> <p>21 field of human factors, is there or are there</p> <p>22 standards for the content of warnings?</p> <p>23 A. No. There are not standards regarding the</p> <p>24 content of warnings across all products.</p> <p>25 Q. And other than -- well, you said the goal</p>
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<p>1 field, would you say?</p> <p>2 A. Safety communications would be a subset of</p> <p>3 how humans interact with the systems.</p> <p>4 Q. So you have a general broad field of human</p> <p>5 factors, correct?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. A subset of that is safety communications.</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Is there across the field of human factors</p> <p>10 or in the subset of safety communications, are there</p> <p>11 any general standards or guidelines that need to be</p> <p>12 followed with respect to warnings?</p> <p>13 A. There are voluntary consensus standards</p> <p>14 related to on-product labeling.</p> <p>15 Q. And are they written anywhere?</p> <p>16 A. Yes, ma'am. ANSI Z535.4.</p> <p>17 Q. Does that relate to a particular product?</p> <p>18 A. That would relate to labels -- on-product</p> <p>19 labels.</p> <p>20 Q. On any product?</p> <p>21 A. It relates -- it may not cover any product</p> <p>22 under the sun. Generally we would consider those</p> <p>23 consumer products.</p> <p>24 Q. Okay. So if you were to say -- well, my</p> <p>25 question to you is -- you gave me the answer -- that</p>	<p>1 of a warning is to communicate safety. Is there any</p> <p>2 other goal of a warning more specifically than just</p> <p>3 communicating safety? Can you elaborate on that a</p> <p>4 little more.</p> <p>5 A. Sure. Generally a warning should endeavor</p> <p>6 to communicate the hazard, the consequence, and the</p> <p>7 avoidance for a particular hazard.</p> <p>8 Q. Would you say that that is a general</p> <p>9 standard in the field of human factors for warnings,</p> <p>10 what they should -- what they should have?</p> <p>11 A. Not every safety communication has to have</p> <p>12 all of those elements present in order to be</p> <p>13 considered reasonable or adequate. But overall when</p> <p>14 you are looking at a warning, those are elements that</p> <p>15 you could typically identify or look for.</p> <p>16 Q. Can you identify any adequate warning that</p> <p>17 does not need to identify each of these three factors,</p> <p>18 the hazard, the consequence, and the avoidance of the</p> <p>19 hazard?</p> <p>20 A. Yeah. There may be certain hazards that</p> <p>21 are considered open and obvious. So, for example, a</p> <p>22 knife would have a sharp edge where an individual</p> <p>23 could injure themselves using the knife and for the</p> <p>24 products like that where the hazard is considered open</p> <p>25 and obvious, there is not generally an on-product</p>

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<p>1 warning that would address the hazard, consequence, 2 and avoidance.</p> <p>3 Q. One example is open and obvious. Any 4 other examples you can think of?</p> <p>5 A. Based on the design of a product, there 6 may not necessarily need to be a warning. So for a -- 7 that would identify each of those elements. For 8 example, a product such as a Bic lighter where there 9 is a flame that comes out of the product, you may not 10 need to identify on that product based on your 11 analysis that you would identify the hazard of fire 12 for that product.</p> <p>13 Q. Okay.</p> <p>14 A. In a warning statement.</p> <p>15 Q. So that would be an open and obvious 16 situation. So let me just recap. Open and obvious 17 situation is one time when you may not necessarily 18 need to communicate those three aspects of a warning 19 in order for it to be adequate.</p> <p>20 A. Generally speaking, yes.</p> <p>21 Q. Are there any negative consequences to 22 having too many warnings for a product?</p> <p>23 A. Could you please clarify your question.</p> <p>24 Q. Sure. Let me strike that question.</p> <p>25 When you develop warnings for a product,</p>	<p>1 depends on the nature of the hazard, what was the 2 second thing you said?</p> <p>3 A. You would want to identify some 4 characteristics of the user population. So if it is 5 an industrial product, you may not need an on-product 6 warning because there is an expectation of training.</p> <p>7 Q. And then whether an on-product warning is 8 required depends on the nature of the hazard, the 9 identity of the user population, and anything else?</p> <p>10 A. There is certainly a lot of factors you 11 want to include. I believe I identified the main 12 ones. For a given hazard there may be additional 13 factors you are going to want to consider as part of 14 your analysis.</p> <p>15 Q. Okay. So have you ever made the analysis 16 that an on-product label is required for a particular 17 product?</p> <p>18 A. For a given product, there may be Consumer 19 Product Safety Commission or other statutorily 20 required language that must appear on the product. So 21 at times you would recommend that the products comply 22 with the regulatory language.</p> <p>23 Q. So that's another factor that we have to 24 consider when we determine whether an on-product label 25 is required, correct? So we have the nature of the</p>
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<p>1 do you conduct research on where the product should 2 be -- where the label should be placed?</p> <p>3 A. Once a hazard for a given product has been 4 identified and the need for an on-product warning has 5 been identified, I certainly could assist with the 6 information on the product.</p> <p>7 Q. Who determines the need for an on-product 8 warning?</p> <p>9 A. Typically a client would identify the need 10 for an on-product warning.</p> <p>11 Q. Do you ever as an expert in safety 12 communications identify independently a need for an 13 on-product warning?</p> <p>14 A. I can't think of a specific example as I 15 sit here. But at times I may have recommended to 16 clients to modify the content of their on-product 17 warnings to identify additional hazards, consequences, 18 and avoidance.</p> <p>19 Q. When does a product need an on-product 20 warning?</p> <p>21 A. That is dependent upon the nature of the 22 hazard, the experience the anticipated users may have, 23 and an analysis conducted by the manufacturer of a 24 product.</p> <p>25 Q. So an on-product warning requirement</p>	<p>1 hazard, the identity of the user population, any 2 governmental or regulatory requirements, and maybe 3 additional requirements depending on the nature of 4 hazard.</p> <p>5 So my question to you is have you 6 specifically ever determined that whether an 7 on-product label has been -- strike that. Have you 8 yourself ever made the determination whether an 9 on-product label is required for a particular product?</p> <p>10 A. As I understand your question, yes, I have 11 assisted. My analysis may indicate that a client may 12 want to consider additional warning information or 13 safety communications be provided on the product.</p> <p>14 Q. And you did that by looking at these 15 factors we have discussed here.</p> <p>16 A. And, again, there may be product-specific 17 factors you need to consider in those analyses.</p> <p>18 Q. And so it is not entirely up to the 19 manufacturer or distributor to create the on-product 20 warning, that is something you as a consultant would 21 do as an -- you as a consultant in human factors would 22 do?</p> <p>23 A. As a consultant in human factors, I would 24 provide recommendations to the client regarding the 25 format, the content, and the layout of the on-product</p>

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<p>1 communications.</p> <p>2 Q. Have you ever done that -- well, have you</p> <p>3 ever yourself made the analysis whether the on-product</p> <p>4 warning is required or in every situation has your</p> <p>5 client come to you saying, I need an on-product</p> <p>6 warning, can you help me with the format, content, and</p> <p>7 layout?</p> <p>8 A. As I understand your question, I believe I</p> <p>9 have assisted them with identifying if -- as it</p> <p>10 relates to a particular product there may be one</p> <p>11 aspect of the interaction with that product that they</p> <p>12 may want to consider as part of their on-product</p> <p>13 warnings, but they would have to perform their own</p> <p>14 analysis to determine if that is how they would wish</p> <p>15 to proceed.</p> <p>16 Q. Okay. So part of your engagement is not</p> <p>17 to make that analysis of whether an on-product warning</p> <p>18 is required or should be placed in the first place.</p> <p>19 A. I may make a recommendation and I believe</p> <p>20 we have already talked about things that would be</p> <p>21 required by Consumer Product Safety Commission or OSHA</p> <p>22 or others that would be required to appear on a</p> <p>23 product. So there are times my recommendations would</p> <p>24 include they comply with the existing regulatory</p> <p>25 information and also I may make recommendations to a</p>	<p>1 information to alert them to the hazard, the</p> <p>2 consequence, and avoidance and then the user would</p> <p>3 have to make a determination if they were going to</p> <p>4 comply or not comply with the information that had</p> <p>5 been presented.</p> <p>6 Q. All right. And if the user does not</p> <p>7 comply, does that mean that the warning is not</p> <p>8 adequate?</p> <p>9 A. Generally speaking, there is lots of</p> <p>10 factors that would need to be considered before I</p> <p>11 could make a determination whether a warning is</p> <p>12 adequate or not.</p> <p>13 MS. BIERNAT: That wasn't my question,</p> <p>14 though.</p> <p>15 Can you read back my question.</p> <p>16 (The record was read by the reporter.)</p> <p>17 THE WITNESS: It is hard to make an</p> <p>18 overall statement like that. It is very broad.</p> <p>19 Q. (By Ms. Biernat) So my question is the</p> <p>20 mere fact that somebody does not comply with the</p> <p>21 warning, does that by itself mean the warning is</p> <p>22 inadequate.</p> <p>23 A. Generally, I would say I do not agree with</p> <p>24 that statement.</p> <p>25 Q. Okay. So a warning can be perfectly fine</p>
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<p>1 client that there may be additional items they would</p> <p>2 want to consider for their on-product label.</p> <p>3 Q. But the decision to make an on-product</p> <p>4 label has already been made by the time it comes to</p> <p>5 you? That's been your experience over the last four</p> <p>6 years.</p> <p>7 A. I cannot recall a specific incidence where</p> <p>8 they presented us a product that was already in the</p> <p>9 market that had no warnings on the product and that we</p> <p>10 made -- I made a recommendation that they needed to</p> <p>11 place an on-product warning on that product.</p> <p>12 Q. Again, you have not consulted -- in your</p> <p>13 nonlitigation work consulted on any household consumer</p> <p>14 products.</p> <p>15 A. As I understand your question and I</p> <p>16 believe what we discussed earlier was appliances and</p> <p>17 we identified several products that may fall under the</p> <p>18 category of appliances and I don't believe I have</p> <p>19 consulted any that we have determined as appliances</p> <p>20 earlier.</p> <p>21 Q. So the purpose, the goal of a warning is</p> <p>22 to communicate safety. Is the goal of a warning to</p> <p>23 change behavior of a consumer?</p> <p>24 A. One aspect of safety communications would</p> <p>25 certainly be that a warning should provide the user</p>	<p>1 if somebody just chooses not to comply with it or heed</p> <p>2 it.</p> <p>3 A. There may be a number of factors that an</p> <p>4 individual presented with a certain set of</p> <p>5 circumstances and safety communications where that</p> <p>6 individual makes a decision whether or not to comply</p> <p>7 with the warning.</p> <p>8 Q. Let's talk about -- I think you mentioned</p> <p>9 this a couple of times -- number of factors that go</p> <p>10 into determining whether a product is or a warning is</p> <p>11 adequate or not. What do you look for to determine</p> <p>12 whether a product warning is accurate?</p> <p>13 A. Is accurate?</p> <p>14 Q. I am sorry. Yeah. Adequate. Sorry.</p> <p>15 A. Factors to consider broadly are the nature</p> <p>16 of the hazard, the consumer's or the user's prior</p> <p>17 knowledge and experience of that hazard, the potential</p> <p>18 consequences associated with that hazard, and then,</p> <p>19 again, the means of avoidance for that particular</p> <p>20 hazard. So you would need to consider all of those</p> <p>21 factors.</p> <p>22 Q. To consider whether a warning is adequate,</p> <p>23 correct?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. And what about the nature of the hazard</p>



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<p>1 that you consider?</p> <p>2 A. I believe as we discussed earlier some</p> <p>3 hazards may be open and obvious to the consumer.</p> <p>4 Other hazards may not be obvious to the consumer and</p> <p>5 they would need to be informed of the nature of that</p> <p>6 hazard.</p> <p>7 Q. How do you determine whether the hazard is</p> <p>8 open and obvious?</p> <p>9 A. There is a variety of factors that you</p> <p>10 would need to consider to determine that and it is</p> <p>11 going to be dependent on the product itself, any</p> <p>12 kind -- the physical characteristics of the product,</p> <p>13 how the product is used, and in what environmental</p> <p>14 circumstances the product is used as well.</p> <p>15 Q. To determine whether a hazard is open and</p> <p>16 obvious or not, you need to look at a variety of</p> <p>17 factors, including physical characteristics of the</p> <p>18 product. What about the physical characteristics?</p> <p>19 Can you be a little more specific for me?</p> <p>20 A. Sure. As it relates to these matters,</p> <p>21 there may be the accumulations of lint inside the</p> <p>22 dryer chassis so that lint accumulation may not be</p> <p>23 obvious to the consumer when they open the door to the</p> <p>24 dryer and look inside.</p> <p>25 Q. So let's be more general, though, and not</p>	<p>1 characteristics.</p> <p>2 A. The hazards associated with a given</p> <p>3 product may already be identified for you by the</p> <p>4 manufacturer. They may -- if you think of a chain</p> <p>5 saw, you observe the product, I guess that's, again,</p> <p>6 another one that may be open and obvious. There also</p> <p>7 may be other times where the hazard is not obvious to</p> <p>8 the consumer.</p> <p>9 Q. How do you determine whether the hazard is</p> <p>10 not obvious to the consumer? You are the expert here.</p> <p>11 How do you determine whether the hazard is obvious to</p> <p>12 the consumer or not?</p> <p>13 A. Just an analysis of the safety</p> <p>14 communications for that product, the communications</p> <p>15 with the client regarding the given product, my</p> <p>16 understanding of the field of human factors and how</p> <p>17 humans may interact with systems and products,</p> <p>18 whatever regulatory information may also play a role</p> <p>19 in that. I think that should generally cover all of</p> <p>20 the factors that would need to be considered.</p> <p>21 Q. So with respect to dryers, you yourself,</p> <p>22 have you made any determination whether the hazards of</p> <p>23 dryers are obvious or not?</p> <p>24 A. With respect to what hazard?</p> <p>25 Q. Any hazard.</p>
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<p>1 specific to this product because we will talk about</p> <p>2 that in a minute.</p> <p>3 I want to know what you are looking at</p> <p>4 when you approach -- you as a human factors expert</p> <p>5 look at when you approach a product to determine</p> <p>6 whether the hazard is open and obvious.</p> <p>7 A. I would look at the safety communications</p> <p>8 that have been provided, the physical characteristics</p> <p>9 of the product, and how those instructions would guide</p> <p>10 the use of that product; and also your own personal</p> <p>11 experience with similar products is also going to</p> <p>12 influence your interaction with that product. So</p> <p>13 products that are used in an industrial setting may</p> <p>14 not (indicating).</p> <p>15 Q. I understand what you are saying. Let's</p> <p>16 say there is no safety communication, you are coming</p> <p>17 at this without the benefit of seeing the safety</p> <p>18 communications. You as a human factors expert, you,</p> <p>19 look at the physical characteristics of a product,</p> <p>20 correct?</p> <p>21 A. If it is a -- yes, ma'am.</p> <p>22 Q. Because I am trying to get at how you form</p> <p>23 your opinion and so I am curious to know what research</p> <p>24 or what investigation or examination do you do to</p> <p>25 determine the hazard when you consider the physical</p>	<p>1 A. I have not attempted to perform an</p> <p>2 analysis if any hazard related to a dryer is open and</p> <p>3 obvious to a consumer.</p> <p>4 Q. Have you educated yourself in any way</p> <p>5 through research or reading or discussions with</p> <p>6 anybody about what any of the hazards of a dryer are?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. And what have you done?</p> <p>9 A. I have reviewed materials related to these</p> <p>10 individual matters, reviewed materials from the</p> <p>11 Consumer Product Safety Commission, and also had</p> <p>12 discussions with others.</p> <p>13 Q. Who have you had discussions with?</p> <p>14 A. Alan Dorris.</p> <p>15 Q. Anybody else?</p> <p>16 A. Not that I recall outside the context of</p> <p>17 litigation.</p> <p>18 Q. So in your discussions with Alan Dorris,</p> <p>19 did he indicate to you what the hazards of dryers are?</p> <p>20 A. No, ma'am. I would not agree he educated</p> <p>21 me as to the hazards of dryers.</p> <p>22 Q. So you have not done any analysis to</p> <p>23 determine whether the hazards of the dryer are both</p> <p>24 open and obvious to the consumer, but you have</p> <p>25 educated yourself on what the hazards of the dryer are</p>



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<p>1 in the course of this litigation; is that accurate?</p> <p>2 A. I have educated myself with respect to</p> <p>3 some of the hazards that may be associated with</p> <p>4 dryers. But I don't feel I have firm grasp of all of</p> <p>5 the potential hazards associated with the dryer.</p> <p>6 Q. What hazards have you educated yourself</p> <p>7 on?</p> <p>8 A. I would say as it relates to dryers, the</p> <p>9 accumulation of lint within the dryer chassis and the</p> <p>10 potential for fire associated with lint accumulation.</p> <p>11 And there may be others.</p> <p>12 Q. Any others?</p> <p>13 A. I don't recall a specific additional</p> <p>14 hazard. But I wanted to be inclusive in my response.</p> <p>15 Q. Okay. So is your opinion in these cases</p> <p>16 related specifically to the hazard of the accumulation</p> <p>17 of lint in the dryer chassis and the risk of fire</p> <p>18 associated with this lint accumulation?</p> <p>19 A. Can you repeat the question.</p> <p>20 (The record was read by the reporter.)</p> <p>21 THE WITNESS: Generally, yes. There are</p> <p>22 also case-specific or matter-specific opinions</p> <p>23 that I hold in these matters.</p> <p>24 Q. (By Ms. Biernat) So I just want to see if</p> <p>25 we can limit this so that we are not going all over</p>	<p>1 then when we talk about the individual cases, you can</p> <p>2 describe for me what the hazard is that you have</p> <p>3 educated yourself on.</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. All right. So now the next thing I want</p> <p>6 to ask you about in general is another factor you have</p> <p>7 identified as whether a warning is adequate is the</p> <p>8 user's prior knowledge.</p> <p>9 Does that involve also the user's own</p> <p>10 personal experience?</p> <p>11 A. As I understand your question, yes, ma'am.</p> <p>12 The user's prior knowledge and experience.</p> <p>13 Q. How much of your analysis is influenced by</p> <p>14 your own personal experience?</p> <p>15 A. Across all products?</p> <p>16 Q. Well, let's say in this case with respect</p> <p>17 to dryers.</p> <p>18 A. I am sure that my own personal experience</p> <p>19 does play a role in my analysis of these matters, yes,</p> <p>20 ma'am.</p> <p>21 Q. How do you determine a user's prior</p> <p>22 knowledge when you are evaluating the adequacy of a</p> <p>23 warning in general?</p> <p>24 A. In general as it relates to other</p> <p>25 products, if there are peer products in the market</p>
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<p>1 the place today.</p> <p>2 Does your opinion relate to the</p> <p>3 communication of the hazard of the accumulation of</p> <p>4 lint in the fire chassis and the risk of fire</p> <p>5 associated with lint accumulation only?</p> <p>6 A. No, ma'am. I don't believe my opinion is</p> <p>7 limited to just that as it relates to all of these</p> <p>8 matters.</p> <p>9 Q. What other hazards -- let me back up,</p> <p>10 then.</p> <p>11 Are there any other hazards that relate to</p> <p>12 each of the eight cases that you have identified or</p> <p>13 educated yourself on?</p> <p>14 A. Broadly across all eight cases I believe</p> <p>15 the risk of fire is one area that I will opine on.</p> <p>16 MS. BIERNAT: But that's not the question</p> <p>17 I asked. Sorry.</p> <p>18 (The record was read by the reporter.)</p> <p>19 THE WITNESS: I believe the answer to your</p> <p>20 question is no.</p> <p>21 Q. (By Ms. Biernat) Okay. Is it fair to say</p> <p>22 you may have identified other hazards with respect to</p> <p>23 certain individual cases?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. That's what you are trying to say. So</p>	<p>1 that individuals have interacted with, the product has</p> <p>2 been established in the market for a long period of</p> <p>3 time, those products may -- there may be an</p> <p>4 expectation that users have prior experience with a</p> <p>5 similar product.</p> <p>6 Q. So how do you determine that? You as the</p> <p>7 expert.</p> <p>8 A. You would have to consider the hazards</p> <p>9 associated with that product, the use of that product,</p> <p>10 what other -- I am sorry, let me have the question</p> <p>11 again.</p> <p>12 Q. Sure. We are talking about the factors</p> <p>13 that you look at when you are evaluating whether a</p> <p>14 product warning is adequate or not. We have discussed</p> <p>15 the nature of the hazard, whether it is open and</p> <p>16 obvious or not; we discussed how we determined whether</p> <p>17 a hazard is open and obvious. The next factor you</p> <p>18 gave me was the user's prior knowledge. How do you</p> <p>19 determine the user's prior knowledge?</p> <p>20 A. For products that have been established in</p> <p>21 the marketplace, individuals may have interacted with</p> <p>22 similar products over a number of years and that may</p> <p>23 build on their experience using those products.</p> <p>24 Certainly the effect of benign experience is also</p> <p>25 going to play a role for those consumers as well.</p>

<p style="text-align: right;">Page 61</p> <p>1 Q. So you would expect a product that is new 2 to the market, the users would have limited or no 3 knowledge of as opposed to a product that has been on 4 the market for quite a while, you would expect users 5 to have greater knowledge of; is that fair to say? 6 A. That may be a little broad, but I think I 7 agree with your statement, yes. 8 Q. That's my question, then. How do you 9 determine this? How do you determine the user's prior 10 knowledge? Do you do research? Do you conduct 11 studies? Do you read material? 12 A. It can be all of those factors that you 13 just listed. Certainly would play a role in your 14 analysis of what education has been provided to users 15 in terms of warnings and instructions and how to use 16 the product. 17 Q. So now the question, how do you do it 18 because I am most concerned about what you do and what 19 you have done and what you can do and what you are 20 supposed to do. 21 A. Yes, ma'am. I certainly try to review any 22 published peer-reviewed literature that is out there 23 that may address how consumers interact with a given 24 product. Generally there is not a lot of 25 product-specific studies in the peer-reviewed</p>	<p style="text-align: right;">Page 63</p> <p>1 be surveys or other studies conducted by individuals 2 that are not peer reviewed that are available that may 3 address -- may provide additional information to 4 educate myself about the hazards for a user's prior 5 experience. 6 Q. So outside of litigation, where you don't 7 have the benefit of deposition testimony, do you rely 8 on the other two things? 9 A. Peer-reviewed literature, surveys 10 conducted by others, or if needed at times you could 11 also undertake some kind of study to evaluate a user's 12 or a population of users' prior experience with the 13 product. 14 Q. With litigation usually we all have the 15 benefit of hindsight. I am talking about the 16 situation where you do not have the benefit of 17 hindsight. Where you are trying, you as the 18 consultant being paid to evaluate someone's warnings, 19 to try to determine if they are sufficient or 20 adequate. You look at peer-reviewed literature, any 21 possible surveys or studies that are out there, and 22 you look into the possibility of maybe conducting your 23 own study. 24 A. Yes, ma'am. 25 Q. If you do not have the benefit of any</p>
<p style="text-align: right;">Page 62</p> <p>1 literature to review. 2 Q. All right. Anything other than reviewing 3 peer-reviewed literature? 4 A. Yes. At times, depending on the 5 circumstances, I may review warning communications 6 materials for similar products that are available in 7 the market. 8 Q. And how do you know if those warning 9 communications for similar products are adequate or 10 not? 11 A. For similar products, it is, again, going 12 to be dependent on the nature of the hazard, whether 13 that particular hazard is unique to the product you 14 are trying to analyze, or if it is a hazard more 15 broadly associated with that category of products. 16 Q. So what I am trying to get at here is I 17 want to know what objective information you rely on 18 when you determine what a user's prior knowledge is 19 when you make the determination or analysis of whether 20 a warning is adequate. 21 A. There may be -- inside of litigation there 22 may be testimony from individuals about their 23 experience with a particular product or prior 24 products. There may be peer-reviewed literature that 25 is applicable to that category of products. There may</p>	<p style="text-align: right;">Page 64</p> <p>1 general -- sorry, specific literature, or any surveys 2 or studies, what kinds of things do you look at? 3 A. You may look at -- if a peer product 4 exists, you may look at the warnings and instructions 5 that are provided with the peer product. There may 6 also be available accident reports or fire reports 7 from other sources as well. 8 Q. So when you look at the peer products' 9 warnings and instructions, are you looking at them to 10 see, what? 11 A. For across a broad category of products, 12 you would be looking to see if the hazards identified 13 are relatively the same, that the consequences of 14 those hazards are in alignment; and then again the 15 avoidance information would generally agree across the 16 peer products. 17 Q. Then how would that inform your decision 18 with respect to the label you are looking at 19 physically? If the hazard agrees across the product 20 class and if the avoidance information is the same 21 across a class or similar, then it is okay to use the 22 same or similar language for your own product? 23 A. Depending on your analysis of your product 24 and if you have a similar hazard you may want to 25 consider similar avoidance information for that</p>

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<p>1 hazard.</p> <p>2 Q. All right. The next factor you gave me</p> <p>3 for determining whether a product's warning is</p> <p>4 adequate is the potential consequences of that hazard.</p> <p>5 How is that relevant to the adequacy of the warning?</p> <p>6 A. The consequence information communicated</p> <p>7 certainly can play a role in elevating a consumer's</p> <p>8 awareness of a particular risk. For example, if the</p> <p>9 risk is a paper cut, the user may not evaluate that</p> <p>10 risk to be that severe. But on the other end of the</p> <p>11 spectrum, if the consequence is serious injury or</p> <p>12 death, that may cause the consumer to have a different</p> <p>13 level of concern about the outcome.</p> <p>14 Q. But then how does the potential</p> <p>15 consequence itself, how does that affect your</p> <p>16 determination whether the warning is adequate or not?</p> <p>17 What about the potential consequence is important in</p> <p>18 determining whether an existing warning is adequate?</p> <p>19 Meaning the more severe consequences, does the warning</p> <p>20 need to be different than something that is less</p> <p>21 severe?</p> <p>22 A. Yes, ma'am. If the warning, if the</p> <p>23 consequences are more severe, it would make a</p> <p>24 difference than if they are less severe.</p> <p>25 Q. How so?</p>	<p>1 if it is more severe the hazard -- I'm sorry, the</p> <p>2 hazard is more severe and the risk is more severe than</p> <p>3 that would determine -- that would factor into whether</p> <p>4 the warning is adequate.</p> <p>5 How about the means of avoidance? You</p> <p>6 mentioned one thing is cost of compliance. How does</p> <p>7 that affect whether the warning is adequate?</p> <p>8 A. It is possible that the avoidance</p> <p>9 information provided for a given hazard may be</p> <p>10 excessive in terms of what the consumer has to do in</p> <p>11 order to comply with that warning in terms of either</p> <p>12 monetary expense or time or effort or a combination of</p> <p>13 those factors.</p> <p>14 Q. How does that relate to the adequacy of</p> <p>15 the warning?</p> <p>16 A. If the means of avoiding the hazard are</p> <p>17 excessive or can be evaluated to be too high, then the</p> <p>18 consumer may not choose to take that action.</p> <p>19 Q. Okay. But how does that relate to the</p> <p>20 adequacy of the warning?</p> <p>21 A. If the avoidance information communicated</p> <p>22 to the consumer has a very high cost of compliance,</p> <p>23 then the effectiveness of the warning could</p> <p>24 potentially be reduced if the consumers aren't going</p> <p>25 to comply with the avoidance information they were</p>
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<p>1 A. It depends on the nature of the hazard.</p> <p>2 It depends on the circumstances of using the product.</p> <p>3 There is a lot of factors that would influence how</p> <p>4 that consequence information is perceived by a given</p> <p>5 user.</p> <p>6 Q. And how about the means of avoidance, what</p> <p>7 about the means of avoidance of the hazard is</p> <p>8 important to determining whether the warning is</p> <p>9 adequate?</p> <p>10 A. Again, there is a lot of things that go</p> <p>11 into determining if the avoidance information for a</p> <p>12 given hazard is adequate. It is going to depend</p> <p>13 generally speaking on the cost of compliance for the</p> <p>14 user to comply with that hazard, whether that is in</p> <p>15 terms of money that they have to spend or effort in</p> <p>16 some regard that they have to exert, that may be in</p> <p>17 the terms of time or some physical action they have to</p> <p>18 perform.</p> <p>19 Q. Because we are going to have to go through</p> <p>20 these things anyway, we may as well talk about them</p> <p>21 now. I appreciate the general overview. I would like</p> <p>22 to get more specific.</p> <p>23 I identified for you one way may be the</p> <p>24 potential consequences would have an impact on if the</p> <p>25 determination of the warning is adequate, depending on</p>	<p>1 provided due to the high cost of compliance.</p> <p>2 Q. So does that mean the warning is less</p> <p>3 adequate, then?</p> <p>4 A. If the avoidance information for a</p> <p>5 particular hazard has a high cost of compliance, yes,</p> <p>6 then the effectiveness of that warning may be reduced</p> <p>7 and then that warning may not be adequate.</p> <p>8 Q. In such a situation where you were saying</p> <p>9 the cost of compliance is so high or too high that the</p> <p>10 consumer chooses not to take action, is there ever a</p> <p>11 possibility of an adequate warning?</p> <p>12 A. As I understand your question, no, I do</p> <p>13 not think if the cost of compliance is too high there</p> <p>14 could be an adequate warning for a given hazard and</p> <p>15 other means of reducing the risk of that hazard need</p> <p>16 to be addressed.</p> <p>17 Q. So in other words, for some products,</p> <p>18 because the consumer him or herself decides it is just</p> <p>19 too costly to comply, no warning would ever be</p> <p>20 adequate for that product.</p> <p>21 A. For a given hazard if the cost of</p> <p>22 compliance for a consumer to comply with that warning</p> <p>23 is above a certain point, then no, the warning may not</p> <p>24 be able to be adequate and you would have to consider</p> <p>25 different means of avoidance of that risk.</p>

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1 Q. All right. You said if the means of  
2 avoiding the hazard are too high, then the consumer  
3 may not choose to take that action. When you state  
4 that, made that statement, you are taking into account  
5 the consumer is educated about the hazard, correct?

6 A. The consumer's education of that hazard  
7 would certainly play a role, yes.

8 Q. And that consumer is educated about the  
9 means of compliance, correct?

10 A. Yes, ma'am.

11 Q. And the consumer, according to your  
12 statement, has balanced the two and made a conscious  
13 decision that the cost of compliance is too high,  
14 correct?

15 A. That may be a little broad but yes, ma'am.

16 Q. So in your scenario in explaining what the  
17 cost of compliance is and how that nullify a warning  
18 completely, the consumer has already made -- is  
19 already educated and has made his or her own decision  
20 about the hazard, correct?

21 A. The consumer may have evaluated the hazard  
22 and the consequence information and then considered  
23 the avoidance information to be more effort or money  
24 than they were willing to expend to address that  
25 particular hazard.

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1 Q. So for the cost of compliance to have any  
2 relevance whatsoever in any situation, the consumer  
3 has to have already understood the warning, understood  
4 the cost and made the determination that they are not  
5 going to do it because it is just too much.

6 A. That again may be a little broad. But  
7 yes, ma'am.

8 Q. One thing I got from our discussion right  
9 there is that a warning is inadequate -- or a warning  
10 may be inadequate if it does not cause the consumer to  
11 take an action to avoid the warning.

12 I am sorry. Let's strike that. A warning  
13 may be inadequate if it does not cause the consumer to  
14 avoid, take action to avoid the hazard.

15 A. Generally, yes, ma'am.

16 Q. But it is not always inadequate if the  
17 consumer does not take action to avoid the hazard?

18 A. No, ma'am.

19 Q. Can you think of any circumstances where  
20 the warning is adequate but it does not cause the  
21 consumer to change his or her actions to avoid the  
22 hazard?

23 A. Are you asking for a hypothetical?

24 Q. Sure.

25 A. One example may be if there is a piece of

1 rotating equipment and the hazard would be considered  
2 that you can observe the hazard, you can see the blade  
3 going around. Similar to your lawnmower, for example,  
4 that the individual may -- under some circumstance it  
5 is possible that they may not disengage the mower to  
6 stop the motor so that the blade continues to spin.  
7 And then for whatever reason they choose not to use a  
8 different implement or stick and put their hand in the  
9 vicinity of the rotating blade in their mower.

10 There is several things that a consumer  
11 would have to do to get to that point. But it is  
12 possible that they could get to that point.

13 Q. How about with smoking, there are warnings  
14 of the risks of smoking on a package, correct?

15 A. Yes, ma'am.

16 Q. Let's say a package of cigarettes I  
17 suppose is what I am referring to to clarify these  
18 days, depending on what state you are from, right.  
19 And some people choose to ignore those warnings.

20 A. Some people do still choose to smoke, yes,  
21 ma'am.

22 Q. In every situation, is that warning --  
23 that warning is not inadequate?

24 A. As it relates to the people choosing to  
25 use a product that is in the marketplace and continue

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1 their behavior using that product, the warning may or  
2 may not be inadequate. There is a variety of  
3 different warnings that are on a cigarette package is  
4 my understanding. I don't have reference to all of  
5 them.

6 Q. Sure. That's probably a complicated  
7 situation as well.

8 Okay. Let me ask you about your reports.  
9 We can get them out. One thing I wanted to ask you  
10 was if we can talk about any information and items  
11 that you considered for every report, we can talk  
12 about them all at once. Are you able to do that? Do  
13 you need to look at all the reports or does one  
14 suffice? What would you prefer? What would you like?

15 A. It is going to depend on the question.

16 Q. What I was going to ask is what material  
17 did you consider when you formed your opinions and we  
18 can keep it to the general opinions first and then go  
19 into each of the individual cases. So maybe what I  
20 will do is -- we can start with the Blake case.

21 I will ask you if you considered all the  
22 information identified here, if you tell me if you can  
23 recall if you considered it for all of the cases. I  
24 understand obviously some of the depositions for each  
25 individual case you did not probably rely on or



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<p>1 consider for the other ones. We can start from there</p> <p>2 and see how it goes.</p> <p>3 So why don't you look at the exhibit copy.</p> <p>4 That's exhibit what?</p> <p>5 A. 5-E.</p> <p>6 Q. 5-E. Okay. That's for the Blake case.</p> <p>7 Now, my first question to you is, is the</p> <p>8 qualification section of each of your eight reports</p> <p>9 the same?</p> <p>10 A. My recollection is that they are all the</p> <p>11 same, yes, ma'am.</p> <p>12 Q. And please, if I ask you a question like</p> <p>13 that, you need to look at them, by all means, let's</p> <p>14 look at them. It is not just -- I am just trying to</p> <p>15 abbreviate things here.</p> <p>16 The next section in your report is</p> <p>17 materials reviewed. Let's talk about that. Can you</p> <p>18 tell me just looking at this one report which of the</p> <p>19 materials you reviewed for all of the cases? If you</p> <p>20 would like to consult the other reports, by all means.</p> <p>21 A. I will try to consult this one report to</p> <p>22 respond to your question.</p> <p>23 Q. If something comes up, we can address it</p> <p>24 later on, too. It is not a problem.</p> <p>25 A. Thank you.</p>	<p>1 3396304, 1994.</p> <p>2 Deposition of Carl King in the Stout and</p> <p>3 Coles also Electrolux Home Products matter. May</p> <p>4 22nd, 2013.</p> <p>5 The AHAM, A-H-A-M, Analysis of Industry</p> <p>6 Data On Clothes Dryer Fire Incidents, August of</p> <p>7 2002.</p> <p>8 And the depositions from over 100</p> <p>9 Electrolux dryer owners, see Appendix A.</p> <p>10 Q. (By Ms. Biernat) How about the third</p> <p>11 amended complaint, the very first one?</p> <p>12 A. I don't recall if that document is present</p> <p>13 in every file for these matters.</p> <p>14 Q. Sure. Okay.</p> <p>15 So let's start with the venting kit.</p> <p>16 A. May I pull that from my file?</p> <p>17 MS. BIERNAT: Please.</p> <p>18 (Recess from 11:29 a.m. to 11:35 a.m.)</p> <p>19 Q. (By Ms. Biernat) You got out the venting</p> <p>20 kit for me. I might have a copy of that and we can</p> <p>21 mark it. Let's see if this is the same. If it is the</p> <p>22 same, we will mark one as the exhibit. Is it the same</p> <p>23 maybe website?</p> <p>24 A. No, ma'am. It is not the same website.</p> <p>25 Q. Okay.</p>
Page 74	Page 76
<p>1 Electrolux venting kit. It lists the</p> <p>2 website address. Do you want me to read that?</p> <p>3 Q. Okay. No. I see that.</p> <p>4 A. Electrolux service manual 27-inch dryers,</p> <p>5 gas and electric models, September 2002.</p> <p>6 Q. All right.</p> <p>7 MR. BOERIGTER: Are these items that you</p> <p>8 did look at for every case?</p> <p>9 THE WITNESS: Yes, sir.</p> <p>10 Photographs of laundry center warning</p> <p>11 labels. Label-Warning Flex Duct, B 1373339,</p> <p>12 dated 3/8/2010.</p> <p>13 The Consumer Products Safety Commission</p> <p>14 document 5022 June 2003.</p> <p>15 FEMA Topical Fire Research Series, Volume</p> <p>16 7, Issue 1, January 2007.</p> <p>17 NFPA March 2009 Home Fires Involving</p> <p>18 Clothes Dryers and Washing Machines.</p> <p>19 Consumer Product Safety Commission</p> <p>20 Statement, Consumer Opinion Form, Survey No. 3,</p> <p>21 September 2010.</p> <p>22 Consumer Product Safety Commission June 1,</p> <p>23 2011, An Evaluation of Using Indicators to Inform</p> <p>24 Consumers of Clothes Dryer Status.</p> <p>25 Whirlpool Use and Care Guide, Part No.</p>	<p>1 A. Do you want me to identify the difference</p> <p>2 in the website?</p> <p>3 Q. Yeah.</p> <p>4 A. The document from my file has a website</p> <p>5 address that includes Electrolux-venting-kit1.html.</p> <p>6 And the document you provided to me is in -- the</p> <p>7 website address at the bottom says</p> <p>8 Electrolux-venting-kit.html. So the web addresses are</p> <p>9 not the same.</p> <p>10 Q. Okay. Can I just look at them real fast</p> <p>11 just to see if I can see it.</p> <p>12 So we won't mark this, this comes from</p> <p>13 your file, the boxes over there.</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. Let's just say it has a sticker that says</p> <p>16 P6 on the top. What does P6 stand for?</p> <p>17 A. P6 as it relates to the Blake matter is</p> <p>18 the sixth document in the product folder, the yellow</p> <p>19 product folder.</p> <p>20 Q. And this is a printout from a website</p> <p>21 www.Electrolux-store.com/Electrolux-venting-kit1.html.</p> <p>22 All right.</p> <p>23 So this is material that you reviewed when</p> <p>24 preparing your report and your opinion in this case,</p> <p>25 correct?</p>



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<p>1 A. Yes, ma'am.</p> <p>2 Q. Did you rely on this content of this</p> <p>3 document at all to form your opinion or to prepare</p> <p>4 your report?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. How so?</p> <p>7 A. The document has a sentence which I quoted</p> <p>8 in my report on Page 7 which states, Clean the inside</p> <p>9 of the dryer and around its heating element. Most</p> <p>10 people do not know that lint can build up around the</p> <p>11 heating element and cause a fire.</p> <p>12 Q. So is that the only part of this document</p> <p>13 that you relied on in preparing your report and coming</p> <p>14 to your opinions?</p> <p>15 A. No, ma'am. There are other parts of the</p> <p>16 document which I reviewed, but that particular element</p> <p>17 stood out to me.</p> <p>18 Q. Anything else in the document that was</p> <p>19 relevant to your opinion or your report?</p> <p>20 A. There may be elements that are contained</p> <p>21 in this document that are relevant to my opinions</p> <p>22 regarding the education of consumers and awareness of</p> <p>23 certain hazards. But as I sit here, I cannot pick out</p> <p>24 another particular package that I relied on in forming</p> <p>25 my opinions.</p>	<p>1 A. It would just be an assumption on my part</p> <p>2 that I included the terms dryer, lint. There may have</p> <p>3 been -- fire may have been another term I would have</p> <p>4 considered.</p> <p>5 Q. Did you find any articles through Google</p> <p>6 Scholar that you reviewed or considered at all?</p> <p>7 A. No, ma'am. I don't believe that I did.</p> <p>8 Q. Okay. Do you know, you said you looked at</p> <p>9 Google Scholar for peer-reviewed articles with respect</p> <p>10 to the dryers, anything in particular to dryers. You</p> <p>11 mentioned lint and fire. Anything else in particular</p> <p>12 with respect to dryers that you looked up?</p> <p>13 A. I may have included terms related to</p> <p>14 instructions manual, warning label.</p> <p>15 Q. What about did you do any Google Scholar</p> <p>16 searches or anything similar to Google Scholar</p> <p>17 database for warnings, instructions, or manuals for</p> <p>18 any appliances, not just dryers?</p> <p>19 A. No, ma'am. I don't believe I included</p> <p>20 additional search terms for other appliance-type</p> <p>21 products.</p> <p>22 Q. Did you conduct any searches into</p> <p>23 peer-reviewed literature for anything other than</p> <p>24 dryers with respect to this case?</p> <p>25 A. No, ma'am. I don't believe I conducted</p>
Page 78	Page 80
<p>1 Q. Now, where did you get this document?</p> <p>2 A. From the Electrolux website.</p> <p>3 Q. You got it yourself?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Did you search specifically for the</p> <p>6 Electrolux venting kit document?</p> <p>7 A. I don't recall.</p> <p>8 Q. Let me ask you this, in your work on these</p> <p>9 cases, did you ever conduct any Internet research?</p> <p>10 A. Yes, ma'am. I have used the Internet to</p> <p>11 look for information related to these matters.</p> <p>12 Q. What searches did you do?</p> <p>13 A. I try to be as inclusive as I can. I</p> <p>14 probably looked at Google Scholar to look for</p> <p>15 peer-reviewed articles related to dryers. I looked at</p> <p>16 the Electrolux website. I looked at the Consumer</p> <p>17 Product Safety Commission website. And there may be</p> <p>18 others. That's just what I can recall sitting here.</p> <p>19 Q. Sure. When you did a Google Scholar</p> <p>20 search, do you recall what search terms you put in?</p> <p>21 A. I would assume -- no, ma'am, I don't.</p> <p>22 Q. Sitting here today, do you have any idea</p> <p>23 of what you may have put in there without making an</p> <p>24 assumption? You did it. Do you have a general</p> <p>25 recollection of what you put in?</p>	<p>1 any other Google-type searches related to this matter.</p> <p>2 Q. Did you review or consider any literature</p> <p>3 no matter how you got it, meaning either through</p> <p>4 Google or through another source when you were</p> <p>5 preparing your report and forming your opinions in</p> <p>6 this case?</p> <p>7 A. Did I consider other material?</p> <p>8 Q. Other literature, other peer-reviewed</p> <p>9 literature.</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. And what was that?</p> <p>12 A. At the back of each of my reports it lists</p> <p>13 the reference articles that -- I not only provide an</p> <p>14 overview of the warnings and hazard communication</p> <p>15 literature, but also I considered the Dingus,</p> <p>16 Hathaway, and Hunn article as part of my opinions for</p> <p>17 this report and also the Rogers, Lamson, and Rousseau</p> <p>18 specifically as they relate to the cost of compliance</p> <p>19 as peer-reviewed publications.</p> <p>20 Q. The other four articles you reviewed</p> <p>21 generally to inform you in the area of human factors;</p> <p>22 is that fair to say?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. These two, the Dingus and McCarthy</p> <p>25 articles, you reviewed specifically to inform you in</p>

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<p>1 the area of costs of compliance?</p> <p>2 A. May I clarify?</p> <p>3 Q. Yes.</p> <p>4 A. The Dingus article, Hathaway, and Hunn and</p> <p>5 the last item, Rogers, Lamson, and Rousseau.</p> <p>6 Q. I circled the wrong one. Not McCarthy.</p> <p>7 A. Not specifically McCarthy, no, ma'am.</p> <p>8 Q. So you told me what you looked at for the</p> <p>9 venting kit. What is the relevance for that section</p> <p>10 you identified and quoted?</p> <p>11 A. The relevance is that it informs me as the</p> <p>12 reader that Electrolux had prior knowledge that in</p> <p>13 their words most people do not know that lint can</p> <p>14 build up around the heating element and cause a fire.</p> <p>15 Q. What relevance does that have for you as</p> <p>16 an expert in human factors?</p> <p>17 A. It would speak to peoples' awareness of</p> <p>18 the potential hazard related to lint accumulation in</p> <p>19 their dryer.</p> <p>20 Q. How so?</p> <p>21 A. That individuals may not be aware of the</p> <p>22 potential hazard associated with lint accumulating in</p> <p>23 their dryer.</p> <p>24 Q. Any other of your materials -- well, let</p> <p>25 me back up.</p>	<p>1 A. Yes, ma'am.</p> <p>2 Q. Of 27-inch dryers.</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. And what is the relevance of this document</p> <p>5 to your report and your opinions?</p> <p>6 A. This document generally addresses what</p> <p>7 activities an authorized service professional would</p> <p>8 perform as it relates to the dryer products from</p> <p>9 Electrolux and several other manufacturers,</p> <p>10 Frigidaire, Tappan, White-Westinghouse, Gibson,</p> <p>11 Kelvinator.</p> <p>12 The relevance to my opinion is not</p> <p>13 contained within this document. It does not address</p> <p>14 how an authorized service provider would remove lint</p> <p>15 from the interior of the dryer or to the extent that</p> <p>16 the lint has the potential to accumulate behind the</p> <p>17 dryer drum to remove the dryer drum from the dryer</p> <p>18 chassis to clean behind there.</p> <p>19 Q. The next document is the photo of the</p> <p>20 laundry center warning labels.</p> <p>21 This is your only copy?</p> <p>22 A. No, ma'am.</p> <p>23 Q. Can we use this as a copy. Is P6 your</p> <p>24 only copy of that one?</p> <p>25 A. No, ma'am.</p>
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<p>1 Do you know who authored this document?</p> <p>2 A. No, ma'am.</p> <p>3 Q. The next item you have identified for all</p> <p>4 the cases is the Electrolux service manual. What is</p> <p>5 the relevance of that one?</p> <p>6 A. It is my understanding that this document</p> <p>7 would not be provided to consumers but to qualified</p> <p>8 service personnel to inform them of the servicing</p> <p>9 requirements for the 27-inch gas and electric model</p> <p>10 dryers.</p> <p>11 Q. Let's make sure, see if this is the same</p> <p>12 as you have there. If so, we will mark that.</p> <p>13 A. The document numbers that you provided me</p> <p>14 and the document you handed me and the one I pulled</p> <p>15 from my file appear to be the same.</p> <p>16 Q. Can you make sure they have the same</p> <p>17 number of pages so we can know they are the same.</p> <p>18 A. It appears the documents have the same</p> <p>19 number of pages, 79 pages.</p> <p>20 MS. BIERNAT: Let's mark my copy.</p> <p>21 (Boelhouwer Exhibit 15 was marked for</p> <p>22 identification.)</p> <p>23 Q. (By Ms. Biernat) So you said your</p> <p>24 understanding is this service manual, Exhibit 15, was</p> <p>25 given to service providers of the product.</p>	<p>1 MS. BIERNAT: Can we use that as a copy,</p> <p>2 too.</p> <p>3 (Boelhouwer Exhibits 16 and 17 were marked</p> <p>4 for identification.)</p> <p>5 Q. (By Ms. Biernat) What is it we are</p> <p>6 looking at in Exhibit 17? What is that?</p> <p>7 A. My understanding of this document is that</p> <p>8 it is a photograph of on-product labels from a laundry</p> <p>9 center -- Electrolux laundry center.</p> <p>10 Q. You said it is your understanding. How</p> <p>11 did you obtain that understanding?</p> <p>12 A. This document was provided to me.</p> <p>13 Q. By?</p> <p>14 A. By attorneys.</p> <p>15 Q. And they identified for you what it was.</p> <p>16 A. Yes.</p> <p>17 Q. Did they identify -- well, they identified</p> <p>18 it was from a laundry center on-product label?</p> <p>19 A. Yes, ma'am. My understanding of this</p> <p>20 document is that it is an on-product marking from an</p> <p>21 Electrolux-manufactured laundry center.</p> <p>22 Q. And that's the only information you have</p> <p>23 about that document.</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. And is that relevant to your report or</p>

<p style="text-align: right;">Page 85</p> <p>1 your opinions in these cases?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. How so?</p> <p>4 A. The contents of this warnings label</p> <p>5 provides a similar instruction to what is provided in</p> <p>6 several of the product manuals for these products and</p> <p>7 includes an instruction to the consumer to clean lint</p> <p>8 screen before drying each load. The interior of the</p> <p>9 machine and exhaust system is to be cleaned</p> <p>10 periodically, approximately every 18 months, by</p> <p>11 qualified service personnel.</p> <p>12 Q. How is that relevant?</p> <p>13 A. It is my understanding that this was</p> <p>14 provided on the laundry center appliance for a period</p> <p>15 of years but not provided on all of the</p> <p>16 Electrolux-manufactured dryers and -- standalone</p> <p>17 dryers and laundry centers for all the products</p> <p>18 related to this litigation.</p> <p>19 Q. So that is an on-product label that</p> <p>20 contains warnings that to your understanding was on</p> <p>21 some Electrolux laundry centers?</p> <p>22 A. Electrolux-manufactured laundry centers.</p> <p>23 Q. But not all of them.</p> <p>24 A. Not all of them.</p> <p>25 Q. Or not all Electrolux dryers.</p>	<p style="text-align: right;">Page 87</p> <p>1 A. No, ma'am.</p> <p>2 Q. So we are looking at -- this is an</p> <p>3 on-product warning. Can you see that? Sorry.</p> <p>4 So we talked about the three general</p> <p>5 things that a warning needs to have to identify the</p> <p>6 hazard -- what was it -- to identify the consequences</p> <p>7 of the hazard and to identify the means of avoidance</p> <p>8 of the hazard?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. So in this case, it says the warning -- it</p> <p>11 says warning, do you have any problems with the term</p> <p>12 warning that is written there, or the format?</p> <p>13 A. Generally, I do not have any problems with</p> <p>14 the safety -- the use of the safety alert symbol and</p> <p>15 the formatting for the signal word warning.</p> <p>16 Q. What is a signal word?</p> <p>17 A. The signal word on this document is</p> <p>18 warning.</p> <p>19 Q. What is a signal word?</p> <p>20 A. A signal word is used on a warning label</p> <p>21 to help consumers identify safety information.</p> <p>22 Q. All right. It says to avoid hazard,</p> <p>23 personal injury or fire damage, including spontaneous</p> <p>24 combustion, that identifies the hazard there, doesn't</p> <p>25 it?</p>
<p style="text-align: right;">Page 86</p> <p>1 A. Not all Electrolux dryers, yes, ma'am.</p> <p>2 Q. And do you have any criticisms of this</p> <p>3 warning? We are looking at the top one, correct?</p> <p>4 A. The first bullet --</p> <p>5 Q. The top page?</p> <p>6 A. Yes, ma'am. The top page, first bullet of</p> <p>7 this warning label in terms of the content of that</p> <p>8 instruction, I would be critical of the duration, the</p> <p>9 time interval for service by a qualified service</p> <p>10 personnel.</p> <p>11 Q. Let me back up a second. There is</p> <p>12 multiple pages there, right?</p> <p>13 A. Yes, ma'am. There are multiple pages</p> <p>14 here.</p> <p>15 Q. How many?</p> <p>16 A. Three pages.</p> <p>17 Q. Are they all from the same product?</p> <p>18 A. I do not know.</p> <p>19 Q. Are there three different labels?</p> <p>20 A. No, ma'am. Page 1 appears to be the</p> <p>21 left-hand portion or a close-up of the label that is</p> <p>22 represented in label 2, Page 2. Page 3 appears to be</p> <p>23 a different warning label.</p> <p>24 Q. Do you know where that warning label from</p> <p>25 Page 3 came from?</p>	<p style="text-align: right;">Page 88</p> <p>1 A. Yes, ma'am. It identifies the fire</p> <p>2 hazard.</p> <p>3 Q. And down, the last line or last two lines,</p> <p>4 but last full sentence has a term caution with an</p> <p>5 exclamation point and a triangle.</p> <p>6 A. Safety alert symbol.</p> <p>7 Q. That's a safety alert symbol?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Is caution a signal word?</p> <p>10 A. Caution can be used as a signal word, yes.</p> <p>11 Q. It says a closed dryer produces</p> <p>12 combustible lint and should be vented outdoors. Is</p> <p>13 that also identifying the hazard, the production of</p> <p>14 combustible lint? Is that the statement, that it</p> <p>15 produces combustible lint?</p> <p>16 A. That it produces combustible lint as part</p> <p>17 of that sentence does help to inform the user of the</p> <p>18 potential hazard, yes.</p> <p>19 Q. So then going back up towards the top of</p> <p>20 the warning label, it says clean lint screen before</p> <p>21 drying each load. That is one way to avoid the</p> <p>22 hazard, it is identifying it as a way to avoid the</p> <p>23 hazard?</p> <p>24 A. The instruction to clean lint screen</p> <p>25 before drying each load does provide a means of</p>

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<p>1 avoidance for the fire hazard but is not inclusive of</p> <p>2 all the means of avoidance.</p> <p>3 Q. Another one that they identify here is do</p> <p>4 not wash or dry articles that have been cleaned,</p> <p>5 washed, soaked or spotted with gasoline, kerosene,</p> <p>6 waxes, cooking oils, dry-cleaning solvents, or other</p> <p>7 flammable or explosive substances. That also provides</p> <p>8 another means to avoid the hazard.</p> <p>9 A. As it relates to the fire hazard and the</p> <p>10 potential for personal injury or fire damage, yes,</p> <p>11 ma'am.</p> <p>12 Q. Then the third bullet point says, Do not</p> <p>13 use heat when drying articles containing foam rubber</p> <p>14 or similar textured rubber-like materials or pillows</p> <p>15 and clothing with feathers or down. That also</p> <p>16 identifies a way to avoid the hazard that is stated up</p> <p>17 here, correct?</p> <p>18 A. The instruction to not use heat does</p> <p>19 provide avoidance information for consumers to avoid</p> <p>20 potential fire hazard, yes, ma'am.</p> <p>21 Q. And then going back to the first bullet</p> <p>22 point, the second sentence says, The interior of the</p> <p>23 machine and the exhaust system is to be cleaned</p> <p>24 periodically by qualified service manual, includes</p> <p>25 approximately every 18 months.</p>	<p>1 the consumers that an interval between when</p> <p>2 cleaning -- when the next service may be needed but it</p> <p>3 does not inform consumers as to when the last service</p> <p>4 was performed or the next service may be needed.</p> <p>5 Q. And my question to you is so what. Why is</p> <p>6 that a problem?</p> <p>7 A. If the means to avoid the hazard is that</p> <p>8 the product would need to be serviced every 18 months</p> <p>9 by a qualified service personnel, consumers may not</p> <p>10 have a means of knowing the last time the service was</p> <p>11 performed or in the time between services when the</p> <p>12 next service may be required.</p> <p>13 Q. Are you talking about in a case where they</p> <p>14 don't own the machine?</p> <p>15 A. An owner of this machine -- Electrolux did</p> <p>16 not provide a means for an owner of this machine to --</p> <p>17 a mechanism to recall when this may be required.</p> <p>18 Q. What proposed mechanisms would you --</p> <p>19 well, let me back up. Would a calendar suffice?</p> <p>20 A. A customer or -- Electrolux could have</p> <p>21 provided a calendar to individuals to identify the</p> <p>22 time the dryer was installed, yes, ma'am.</p> <p>23 Q. How about a pencil to write down the</p> <p>24 timing on a piece of paper?</p> <p>25 A. A consumer could use a pencil to write</p>
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<p>1 Well, that provides, that whole sentence</p> <p>2 provides also a means to avoid the hazard, correct?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. Do you have any criticism of the sentence</p> <p>5 absent the approximately 18 months' time specified?</p> <p>6 A. The beginning portion of the sentence</p> <p>7 where it states "the interior of the machine" is</p> <p>8 ambiguous.</p> <p>9 Q. Do you have any qualms or criticisms of</p> <p>10 the term exhaust system?</p> <p>11 A. I do not have an express, explicit</p> <p>12 criticism of the term exhaust system. But I don't</p> <p>13 believe that term is consistent across the on-product</p> <p>14 label and the information contained in the manual.</p> <p>15 Q. What do you mean, across the on-product</p> <p>16 label?</p> <p>17 A. May I look at a manual for -- the term</p> <p>18 exhaust system itself?</p> <p>19 Q. Right.</p> <p>20 A. May not be the same terminology used in</p> <p>21 the manual provided with the machine. So these terms</p> <p>22 may not be the same.</p> <p>23 Q. All right. And you have a criticism of</p> <p>24 the every 18 months?</p> <p>25 A. That there is a -- it provides guidance to</p>	<p>1 down on a piece of paper the date, yes, ma'am.</p> <p>2 Q. So your first criticism is the consumer</p> <p>3 won't know when it was last serviced.</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. But what if the consumer owns the product?</p> <p>6 A. The consumer -- if the consumer owns the</p> <p>7 product, there is -- they would not have a means of</p> <p>8 identifying the time when the service was performed.</p> <p>9 For example, when you have your oil changed in your</p> <p>10 vehicle, sometimes they place a small sticker on the</p> <p>11 inside of your window and it says last service was or</p> <p>12 next service required, so that would provide</p> <p>13 information to the consumer when the last service was</p> <p>14 performed.</p> <p>15 Q. Okay. But if they buy it new?</p> <p>16 A. Then at times, when the dryer is</p> <p>17 installed, we would assume that the dryer is in a new</p> <p>18 condition and that service according to that</p> <p>19 instruction would not be required for 18 months.</p> <p>20 Q. So your criticism -- are you saying this</p> <p>21 warning is inadequate because Electrolux did not</p> <p>22 provide a means for the consumer to remember when 18</p> <p>23 months had passed?</p> <p>24 A. That is one of my criticisms of that</p> <p>25 language, yes, ma'am.</p>



<p style="text-align: right;">Page 93</p> <p>1 Q. Is every manufacturer of a product 2 required to provide a consumer with means to recall 3 when a product may need to be serviced? 4 A. That is going to depend on the particular 5 hazard and the consequences for a product. 6 Q. Can you identify for me any other products 7 where you contend the manufacturer has a duty to 8 provide the consumer with a means to recall when the 9 service needs to be performed? 10 A. I am aware of systems in automobile 11 applications that do inform the consumer. For 12 example, on my own personal vehicle, it will tell you 13 what percentage of oil life is remaining and when the 14 service is performed that number is returned to 100 15 percent. It decreases over time and so that provides 16 the information to the consumer when the next service 17 would be required. 18 Q. So your car, when was it built? What year 19 is it? 20 A. My vehicle is a 2014. 21 Q. Okay. So what about a 2000 vehicle, the 22 year 2000, a year 1995 vehicle, if they don't have the 23 same indicator, are their warnings in there 24 inadequate? 25 A. Older vehicles may not have incorporated</p>	<p style="text-align: right;">Page 95</p> <p>1 over an interval of time and the manufacturer does not 2 provide a reminder mechanism, is that warning de facto 3 defective? 4 A. For a manufacturer not to provide a 5 reminder mechanism for a service interval is going to 6 depend on a variety of factors. So I can't just give 7 you a yes or no answer to that. 8 Q. For this product, however, for a dryer, it 9 is your opinion that the warning is defective because 10 it does not contain a mechanism for a reminder for the 11 service. 12 A. My opinion is that the consumers would 13 need to be informed as to when the last service was 14 performed or the next service would be required for 15 the product. Yes. 16 MS. BIERNAT: So can you answer my 17 question, yes or no. 18 (The record was read by the reporter.) 19 THE WITNESS: Yes. 20 Q. (By Ms. Biernat) What is the basis for 21 that statement? 22 A. That the service timeframe or interval 23 that the owner of the product wouldn't have -- 24 wouldn't know when the last service was performed and 25 they wouldn't be able to determine when the next</p>
<p style="text-align: right;">Page 94</p> <p>1 that particular means of communicating information to 2 the consumer. But an older vehicle in the range that 3 you have identified would have an odometer so that the 4 consumer would be able to see, observe how many miles 5 the vehicle has traveled and could consult other 6 information provided by the manufacturer in their 7 owner's manual to see what the next service interval 8 would be required for their vehicle. 9 Q. But the owner in that case would have to 10 keep some kind of track of when service is required, 11 correct? 12 A. The owner in that circumstance where they 13 are relying on the odometer reading to provide them 14 information, that they would be able to use that 15 information to determine when in terms of miles the 16 next service would be required in the future, yes, 17 ma'am. 18 MR. BOERIGTER: Take a short break. 19 (Recess from 12:09 p.m. to 12:55 p.m.) 20 Q. (By Ms. Biernat) Let's get back on the 21 record. 22 I think we were talking about products 23 that require service, interval service, so service 24 every several months or years, whatever. 25 If a product requires regular maintenance</p>	<p style="text-align: right;">Page 96</p> <p>1 service is needed. 2 Q. So what is the basis for your statement 3 that the consumer of the product would not know when 4 the last service was? 5 A. A consumer would have -- if they were 6 provided a receipt or a document that may allow them 7 to know -- to set when the last service was performed 8 but that doesn't provide them a mechanism for knowing 9 when the next service is required. 10 Q. What is the basis for your statement, 11 though, that the failure to provide a mechanism for a 12 reminder makes, renders the warning inadequate? 13 A. It is just one of the factors from my 14 opinion that I considered how this particular warning 15 is not adequate. The others are addressed in my 16 report. With respect to this one, the basis of my 17 opinion is my experience with -- is my background, 18 training, and experience. 19 Q. So your four years as what? Background, 20 training, and experience as what? As a litigation 21 expert? 22 A. My background, training, and experience 23 covered by my doctoral research, the papers I have 24 written, and the litigation matters I have been 25 involved in and also the nonlitigation consulting</p>



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<p>1 services I have performed.</p> <p>2 Q. So that would -- there is no other basis,</p> <p>3 you cannot point to anything else as a basis for your</p> <p>4 opinion that the failure to provide a warning, a</p> <p>5 reminder mechanism renders a warning inadequate?</p> <p>6 A. As I sit here, I am not recalling anything</p> <p>7 that I can specifically point to as a basis for that,</p> <p>8 no, ma'am.</p> <p>9 Q. And so your opinion is that failure to</p> <p>10 provide a reminder mechanism on dryers to service them</p> <p>11 every 18 months renders the warning inadequate.</p> <p>12 Any other products -- you mentioned your</p> <p>13 car -- any other products besides your car where the</p> <p>14 failure to provide a reminder mechanism renders any</p> <p>15 warning inadequate?</p> <p>16 A. As I sit here, I can't think of another</p> <p>17 example off the top of my head. I would believe that</p> <p>18 there are other products that may be true for, yes,</p> <p>19 ma'am.</p> <p>20 Q. Is it your understanding that furnaces</p> <p>21 require regular maintenance?</p> <p>22 A. I haven't tried to analyze furnaces,</p> <p>23 furnace-type products, so I don't know.</p> <p>24 Q. So can you identify any other product,</p> <p>25 consumer product, be it an appliance or not, that</p>	<p>1 consumers to remind themselves of required maintenance</p> <p>2 on any home appliances?</p> <p>3 A. No, ma'am.</p> <p>4 Q. Did any of your research or, sorry, did</p> <p>5 any of your publications involve consumer appliances?</p> <p>6 A. Based on our -- no, ma'am, based on our</p> <p>7 description or our classification of consumer</p> <p>8 appliances earlier, the answer is no.</p> <p>9 Q. Have you ever taken any classes or</p> <p>10 attended any seminars where the topic has been the</p> <p>11 consumer's use of and maintenance of home appliances?</p> <p>12 A. As I understand your question, no, ma'am.</p> <p>13 Q. So is there any specific education that</p> <p>14 you have had that you can recall that informs your</p> <p>15 opinion that the failure to include a reminder</p> <p>16 mechanism renders a warning inadequate in this case?</p> <p>17 A. As I -- no, ma'am, I don't recall.</p> <p>18 Q. Let's talk about the next document that</p> <p>19 you have reviewed. You said the label of the flex,</p> <p>20 the warning flex duct. Do you have that?</p> <p>21 A. Yes, ma'am.</p> <p>22 I have the document now.</p> <p>23 Q. Let me see that real quick. Is that a</p> <p>24 copy we can mark?</p> <p>25 A. Yes.</p>
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<p>1 requires regular maintenance?</p> <p>2 A. As I sit here, we have discussed</p> <p>3 automobiles as one category of products. I am not</p> <p>4 able to identify another product as I sit here today.</p> <p>5 Q. And as you sit here today, have you done</p> <p>6 any research to inform your opinion today that a</p> <p>7 consumer would be unable or unwilling to remind him or</p> <p>8 herself about regular service required for a home</p> <p>9 appliance?</p> <p>10 A. It is possible for a consumer to remind</p> <p>11 themselves of a service interval. However, I am not</p> <p>12 aware of that from my review of the deposition</p> <p>13 testimony in these matters.</p> <p>14 MS. BIERNAT: Can you answer my question.</p> <p>15 (The record was read by the reporter.)</p> <p>16 THE WITNESS: As I understand your</p> <p>17 question, no, I have not done any research.</p> <p>18 Q. (By Ms. Biernat) Have you conducted any</p> <p>19 surveys of consumers to determine whether they are</p> <p>20 willing or able to remind themselves to conduct</p> <p>21 maintenance on, interval maintenance on home</p> <p>22 appliances?</p> <p>23 A. No, ma'am.</p> <p>24 Q. Have you ever written any papers or any</p> <p>25 publications regarding the ability or the tendency of</p>	<p>1 MS. BIERNAT: I think I have a copy of it,</p> <p>2 too.</p> <p>3 (Boelhouwer Exhibit 18 was marked for</p> <p>4 identification.)</p> <p>5 Q. (By Ms. Biernat) What is the relevance of</p> <p>6 this document to your opinion in your report?</p> <p>7 A. This document -- it is my understanding</p> <p>8 this document is an on-product warning label that</p> <p>9 Electrolux provided on the rear of some dryers that</p> <p>10 they manufactured.</p> <p>11 Q. And where did you get it?</p> <p>12 A. It was provided to me by counsel.</p> <p>13 Q. And they represented to you what that was?</p> <p>14 A. Yes. They represented to me that this was</p> <p>15 an on-product marking installed on Electrolux dryers.</p> <p>16 Q. What is the relevance of that to your</p> <p>17 opinion today?</p> <p>18 A. This document contains language regarding</p> <p>19 the use of flexible foil venting, I believe is the</p> <p>20 information that stands out to me as I review it as I</p> <p>21 sit here.</p> <p>22 Q. So what relevance does that have to your</p> <p>23 opinions?</p> <p>24 A. For some products, for some Electrolux</p> <p>25 dryers at different points in time in the installation</p>

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<p>1 instructions it was permitted to use flexible foil as 2 part of the venting system and then my understanding 3 of this document is that at some point in time this 4 would instruct the installer to not use flexible foil 5 for the installation of a dryer. 6 Q. So what relevance does that have to your 7 opinion about the warnings in this case? 8 A. This document would provide information to 9 the installer about what types of materials may or may 10 not be used for the venting system for dryer 11 installation. 12 Q. Does that inform your opinion about the 13 adequacy or inadequacy of the warnings at issue? 14 A. It does inform me that at some point in 15 time Electrolux chose to provide this information on 16 product in addition to what they provided in the 17 installation manuals. 18 Q. That was provided on the back of the 19 product, correct? 20 A. My understanding is that would have been 21 provided on the rear of the product. 22 Q. And that was about -- that's regarding the 23 venting of the product, correct? 24 A. Generally, this document speaks to the 25 venting of the product.</p>	<p>1 Clothes Dryers Can Cause Fires, is an alert intended 2 for who? 3 A. My understanding, this would be intended 4 for consumers to review. 5 Q. So this is an alert provided by Consumer 6 Product Safety Commission which is a governmental 7 agency, correct? 8 A. Yes, ma'am. 9 Q. Provided to consumers, correct? 10 A. I am not sure how they distribute this 11 document. 12 Q. Meant for consumption by consumers? 13 A. It appears to me it is meant for 14 consumption of consumers, yes, ma'am. 15 Q. Identifying that overheated clothes dryers 16 can cause fires. 17 A. Yes, ma'am. 18 Q. This identifies the hazard. 19 A. Yes, ma'am. 20 Q. It also states that fire can occur when 21 lint builds up in the dryer or in the exhaust duct, 22 correct? 23 A. Yes, ma'am. 24 Q. And lint can block the flow of air causing 25 excessive heat buildup and result in a fire in some</p>
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<p>1 Q. Do you have any criticism of that 2 document, of the warnings provided there? 3 A. May I read it? 4 Q. Sure. 5 A. I have reviewed the language on the top 6 portion of this warning label and I do not have any 7 criticism of the language of the contents of this 8 label at this time. 9 MS. BIERNAT: The next document that you 10 have identified as something you reviewed in all 11 these cases, the Consumer Product Safety 12 Commission document 5022. 13 (Boelhouwer Exhibit 19 was marked for 14 identification.) 15 Q. (By Ms. Biernat) So tell me what this 16 document is. 17 A. This document is a Consumer Product Safety 18 Commission Safety Alert. 19 Q. Did it have any relevance to your opinion 20 or your report? 21 A. Yes, ma'am. 22 Q. What relevance did it have? 23 A. Generally, this document discusses the 24 potential for dryers to catch on fire. 25 Q. So this document here is titled Overheated</p>	<p>1 dryers; is that correct? 2 A. Yes, ma'am. 3 Q. Do you know the date of this publication? 4 A. I believe it is on the lower right-hand 5 corner, 022012, I would interpret that as February of 6 2012. 7 Q. Then it says 062003, do you know if that's 8 another date that is relevant? 9 A. I don't know. 10 Q. So we don't know either way for sure what 11 the date of this is. 12 A. No, ma'am. 13 Q. How is this relevant to your opinion? 14 A. It provides information related to the 15 hazard, the consequence, and avoidance for the fire 16 risk for clothes dryers. 17 MS. BIERNAT: The next document that you 18 have identified is the FEMA Topical Fire Research 19 Series, Volume 7, Issue 1. 20 (Boelhouwer Exhibit 20 was marked for 21 identification.) 22 Q. (By Ms. Biernat) We were on the FEMA, 23 right? 24 A. Yes. 25 Q. What is this document?</p>

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<p>1 A. This document is from FEMA and it is 2 entitled Clothes Dryer Fires in Residential Buildings, 3 2008 to 2010. 4 Q. So the one that you have identified in 5 your report is a little outdated, correct? The one 6 you have identified there, Topical Fire Research, 7 Series Volume 7, that one says January 2007. 8 A. I am not aware why there is a difference 9 in the headers for these two documents. 10 Q. Let me ask you briefly, the last exhibit, 11 the CPSC document, 5022, where did you get that? 12 A. From the Consumer Product Safety 13 Commission website. 14 Q. How did you decide to go to the CPSC 15 website? 16 A. Consumer Product Safety Commission would 17 be the government agency that would address this class 18 of products. 19 Q. Is that something that you decided on your 20 own or did somebody direct you to that website? 21 A. I believe I went to that website on my 22 own. 23 Q. So where did you get this Exhibit 20, the 24 FEMA report? 25 A. I believe I get this from the FEMA</p>	<p>1 to your opinion and your report? 2 A. This document generally informs me of the 3 potential for dryer fires in residential buildings. 4 Q. And what specific aspect of the fact that 5 it informs you of dryer fires in residential buildings 6 was relevant to your opinion? 7 A. Without reviewing the entire document, I 8 don't believe there is anything that I can point to 9 within this document that was specific, but it was 10 more of a general for my background regarding the 11 risks of these hazards. 12 Q. Second paragraph, there is an estimated 13 2900 dryer fires each year in the United States. Is 14 that about right? 15 A. That is what this document states, yes, 16 ma'am. 17 Q. Do you have any idea how many dryers there 18 are in use across the United States? 19 A. As I sit here, I don't recall. I believe 20 I have seen that number in other documents. But I 21 don't recall a number right now. 22 MS. BIERNAT: And let's go to the next 23 document, NFPA 2009 Home Fires Involving Clothes 24 Dryers and Washing Machines. 25 ///</p>
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<p>1 website. 2 Q. And one of my -- I am guessing that when 3 you -- well, let me ask you this, did you type this 4 report? 5 A. Yes, ma'am. 6 Q. Is there any portion of this report that 7 was used in a prior expert report for another case? 8 A. Yes, ma'am. There are portions of this 9 report that would be used not only in these matters, 10 but I believe you identified the Brennan matter as 11 well. 12 Q. Then there is the Haroutounyan matter. 13 A. Yes, ma'am. 14 Q. Is it possible you had drafted this 15 portion of the report identifying the FEMA Topical 16 Research Series Volume 7, Issue 1, January 2007 in a 17 previous report, cut and pasted, and just didn't 18 change the date of the report? 19 A. It is possible that when I was filing 20 these materials that I did not notice that 21 discrepancy. 22 Q. Or do you know if there was actually a 23 FEMA report from 2007? 24 A. I do not know. 25 Q. So what is the relevance of this document</p>	<p>1 (Boelhouwer Exhibit 21 was marked for 2 identification.) 3 Q. (By Ms. Biernat) Where did you get the 4 FEMA document, did you tell me? 5 A. The one that we marked I got from the 6 FEMA.gov website identified on the bottom of the 7 document. 8 Q. So this next document, where did you get 9 that? 10 A. I believe the document, Home Fires 11 Involving Clothes Dryers and Washing Machines dated 12 March 2009, was provided by counsel. 13 Q. Does this have any relevance to your 14 opinion or your report other than general education to 15 you about dryers and fires? 16 A. As I sit here, I don't recall any 17 specific -- anything specific in this document beyond 18 just a general background. 19 MS. BIERNAT: The next document is CPSC 20 Opinion Forum Survey No. 3. 21 (Boelhouwer Exhibit 22 was marked for 22 identification.) 23 Q. (By Ms. Biernat) Where did you get this 24 document? 25 A. From the Consumer Product Safety</p>

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<p>1 Commission website.</p> <p>2 Q. And does this document have any relevance</p> <p>3 to your opinion, opinions in this case, these cases,</p> <p>4 or your report?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. What is that?</p> <p>7 A. My brief description of this document is</p> <p>8 that it was a survey conducted by Consumer Product</p> <p>9 Safety Commission of dryer owners.</p> <p>10 Q. And what was the purpose of the survey?</p> <p>11 A. It was to -- generally the purpose of the</p> <p>12 survey was to identify how consumers used their dryer,</p> <p>13 what maintenance activities they would perform related</p> <p>14 to their dryers, some questions regarding how their</p> <p>15 dryer was installed, and their awareness of potential</p> <p>16 hazards associated with their dryer.</p> <p>17 Q. This was done in -- September 2010 it was</p> <p>18 published.</p> <p>19 A. Yes, ma'am. The study date is</p> <p>20 September 2010.</p> <p>21 Q. And the survey was done on a convenience</p> <p>22 sample; is that correct?</p> <p>23 A. Yes. It was not a random sample.</p> <p>24 Q. Can you describe for us what a convenience</p> <p>25 sample is?</p>	<p>1 (Boelhouwer Exhibit 23 was marked for</p> <p>2 identification.)</p> <p>3 Q. (By Ms. Biernat) The next one is a</p> <p>4 Consumer Product Safety Commission document.</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. That is the CPSC June 1st, 2011,</p> <p>7 publication An Evaluation Using Indicators to Inform</p> <p>8 Consumers of Clothes Dryer Status.</p> <p>9 What is this document?</p> <p>10 A. It is a paper written by the Consumer</p> <p>11 Product Safety Commission regarding different types of</p> <p>12 features on clothes dryers.</p> <p>13 Q. And what types of features, indicator</p> <p>14 features, correct?</p> <p>15 A. It states in the title indicator features,</p> <p>16 yes, ma'am.</p> <p>17 Q. What is your understanding of what an</p> <p>18 indicator is in this context of this paper?</p> <p>19 A. My understanding of status indicators is</p> <p>20 from Page 5 and that the use of status indicators may</p> <p>21 be divided into two categories, reminders and</p> <p>22 warnings. So there would either be a reminder or</p> <p>23 warning to a consumer about the product.</p> <p>24 Q. Where are you reading that, on the top?</p> <p>25 A. Yes, ma'am. The last sentence of the</p>
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<p>1 A. A sample of convenience is a population --</p> <p>2 and in this case these are individuals who opted to</p> <p>3 participate in Consumer Product Safety Commission</p> <p>4 surveys so it is not a random sample of population.</p> <p>5 Q. They, in fact, signed up to the CPSC</p> <p>6 website; is that correct?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. How many respondents were there, do you</p> <p>9 recall?</p> <p>10 A. Reference to this document on Page 3,</p> <p>11 there were 358 respondents.</p> <p>12 Q. Out of 2,381 invitations; is that correct?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Does this survey have any relevance to</p> <p>15 your opinion at all?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. What is that?</p> <p>18 A. The entire document is relevant to my</p> <p>19 opinion. There are certain portions of it that I</p> <p>20 included in my report. It has a lot of information</p> <p>21 regarding frequency of use of the dryer, number of</p> <p>22 loads per week, how individuals install their dryer,</p> <p>23 frequency of maintenance activities as well.</p> <p>24 MS. BIERNAT: Let's talk about that in a</p> <p>25 little bit.</p>	<p>1 first paragraph.</p> <p>2 Q. All right. When did you -- where did you</p> <p>3 get this document from?</p> <p>4 A. I don't recall.</p> <p>5 Q. So you don't recall if you got it yourself</p> <p>6 or if it was given to you?</p> <p>7 A. I do not recall if it is a reference</p> <p>8 within the -- no. I guess it would not be a reference</p> <p>9 to this survey. I do not recall if while I was on the</p> <p>10 Consumer Product Safety Commission website I reviewed</p> <p>11 this document or it was provided to me.</p> <p>12 Q. So do you recall when you first reviewed</p> <p>13 this?</p> <p>14 A. No, ma'am.</p> <p>15 Q. Did you have the opinion -- well, one of</p> <p>16 your opinions is that there should be some kind of</p> <p>17 indicator on Electrolux dryers; is that correct?</p> <p>18 A. Yes, ma'am. That is a portion of one of</p> <p>19 my opinions.</p> <p>20 Q. Did you form that opinion before or after</p> <p>21 reading this document?</p> <p>22 A. I don't recall.</p> <p>23 Q. Is your opinion that there should be some</p> <p>24 sort of indicator on Electrolux dryers based solely on</p> <p>25 this report here?</p>



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<p>1 A. No, ma'am.</p> <p>2 Q. So you do not recall whether your opinion</p> <p>3 was created after you read this statement, this</p> <p>4 report?</p> <p>5 A. No, ma'am.</p> <p>6 Q. And other than your car, you cannot</p> <p>7 identify for me any consumer product that has an</p> <p>8 indicator on it?</p> <p>9 A. As I sit here today, I can't recall</p> <p>10 another product.</p> <p>11 MS. BIERNAT: The next document is</p> <p>12 Whirlpool Use and Care Guide.</p> <p>13 (Boelhouwer Exhibit 24 was marked for</p> <p>14 identification.)</p> <p>15 Q. (By Ms. Biernat) What is this? Where did</p> <p>16 you get it and what significance does it have?</p> <p>17 A. This Whirlpool Use and Care Guide was</p> <p>18 provided to me by counsel.</p> <p>19 Q. And do you recall when you received it?</p> <p>20 A. No, ma'am.</p> <p>21 Q. What is the significance of this document?</p> <p>22 A. A portion of the significance of this</p> <p>23 document is that it includes a system that is a part</p> <p>24 of a dryer to inform users when lint accumulates on</p> <p>25 the lint screen.</p>	<p>1 that the lint signal relates to lint on the lint</p> <p>2 screen.</p> <p>3 Q. What is the percentage of dryer users who</p> <p>4 remove the lint on the lint screen without any</p> <p>5 indicator? Do you know?</p> <p>6 A. I do not know the percentage of dryer</p> <p>7 users who remove the lint from the lint screen without</p> <p>8 the use of a dryer indicator, no.</p> <p>9 Q. How about the percentage of dryer users</p> <p>10 who remove the lint from the lint screen with or</p> <p>11 without an indicator?</p> <p>12 A. I would have to refer to the Consumer</p> <p>13 Product Safety Commission document where they surveyed</p> <p>14 consumers about their dryer usage and their</p> <p>15 maintenance.</p> <p>16 Q. What does that number say?</p> <p>17 A. There is a chart on Page 10 which</p> <p>18 indicates the frequency of cleaning the lint filter</p> <p>19 for the survey respondents.</p> <p>20 Q. And that is what? There is a number</p> <p>21 there. There is a number in this document, isn't</p> <p>22 there? Approximately 96 percent of all respondents</p> <p>23 reported cleaning their clothes dryer lint filter at</p> <p>24 some time.</p> <p>25 A. Yes, ma'am.</p>
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<p>1 Q. What page are you looking at?</p> <p>2 A. Please give me one moment.</p> <p>3 Q. Sure.</p> <p>4 A. Page 15.</p> <p>5 Q. Okay. So do you know why this was given</p> <p>6 to you?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. Why?</p> <p>9 A. This is a product that was available and</p> <p>10 my understanding is this document dates back to 1994,</p> <p>11 that other manufacturers included alternative or</p> <p>12 different design features to alert consumers about the</p> <p>13 presence of lint on their dryer product.</p> <p>14 Q. So let's break that statement down. What</p> <p>15 other manufacturers besides Whirlpool does this advise</p> <p>16 us about?</p> <p>17 A. It just advises us about Whirlpool.</p> <p>18 Q. Your last statement was lint in the dryer.</p> <p>19 That's not correct, is it? It talks about an</p> <p>20 indicator for lint in the lint screen, correct?</p> <p>21 A. And the lint screen is contained within</p> <p>22 the dryer.</p> <p>23 Q. All right. To be more specific, it is an</p> <p>24 indicator for lint on the lint screen, correct?</p> <p>25 A. That is my understanding of this document,</p>	<p>1 Q. So do you know if this warning signal in</p> <p>2 the Whirlpool dryers had any effect in increasing that</p> <p>3 percentage?</p> <p>4 A. I have not attempted to analyze that and I</p> <p>5 am not aware of any data for that, no, ma'am.</p> <p>6 Q. Do you know what percentage of these</p> <p>7 respondents -- and with the caveat that we have</p> <p>8 already discussed the sample is a convenience</p> <p>9 sample -- do you know what percentage of these</p> <p>10 respondents use Whirlpool dryers with the lint</p> <p>11 indicator?</p> <p>12 A. No, ma'am.</p> <p>13 Q. So you have no idea if none of them</p> <p>14 received any indicator from their appliance or all of</p> <p>15 them received any indicator from their appliance to</p> <p>16 clean the lint screen?</p> <p>17 A. There is not information provided in the</p> <p>18 Consumer Product Safety Commission to identify what</p> <p>19 dryer features related to lint accumulation</p> <p>20 indications may have been provided to consumers.</p> <p>21 Q. Do you have any information about the rate</p> <p>22 of dryer fires involving Whirlpool dryers for any</p> <p>23 given year in the last 15 years?</p> <p>24 A. I do not recall.</p> <p>25 Q. Do you have any indication of whether the</p>



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<p>1 lint -- do you have any evidence or data where the 2 lint indicator of the Whirlpool dryer affected the 3 rate of compliance with that recommendation to clean 4 the lint filter? 5 A. No, ma'am. 6 Q. Do you have any indication or data or any 7 evidence that the lint indicator actually functioned 8 and functioned properly throughout the duration of the 9 life of the product, Whirlpool product? 10 A. No, ma'am. 11 Q. So the only thing that you know is that 12 there is a use and care guide that describes a whistle 13 that sounds when a lint filter in a Whirlpool dryer is 14 clogged. 15 A. As I understand your question, yes, ma'am. 16 Q. Have you done any other survey or review 17 of the warnings provided by other manufacturers of 18 dryers? 19 A. No, ma'am. 20 Q. One thing you said earlier is that one way 21 to determine what type of warning to put on a product 22 is to see what the peer products are doing; is that 23 correct? 24 A. Yes, ma'am. 25 Q. But you have made no attempt to compare</p>	<p>1 Q. Is this to give you background in the 2 topic of dryer fires or was it relevant for any other 3 purpose in addition to that? 4 A. I don't recall a specific item from this 5 document. I believe it was just a general background. 6 Oh, yes. This document also -- they went 7 and investigated dryer fire incidences so they were 8 trying to gather information from consumers about 9 fires that occurred. 10 Q. And so is there any other information from 11 this document that supports your opinions or your 12 report? 13 A. I believe there is reference in this 14 document to the high percentage of users for the 15 incidents they investigated where the installation of 16 their dryer used a foil venting product. 17 Q. Okay. That has relevance to your opinion 18 how? 19 A. That the use of foil venting products was 20 prevalent as early as 2002. 21 Q. Okay. The next, deposition of Carl King. 22 You received and reviewed that, correct? 23 A. Yes, ma'am. 24 Q. We don't have to mark that. That's fine. 25 Did you make any notations on the deposition?</p>
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<p>1 what the peer products are doing with respect to 2 warnings for dryers. 3 A. As it relates to the Electrolux dryers in 4 these matters, no, ma'am. 5 Q. So you have no opinion if Electrolux 6 warnings differ in any way from other manufacturers; 7 is that correct? 8 A. As I sit here today, no, ma'am, I do not. 9 MS. BIERNAT: We will go to the AHAM 10 Analysis of Industry Data on Clothes Dryer Fire 11 Incidents. 12 (Boelhouwer Exhibit 25 was marked for 13 identification.) 14 Q. (By Ms. Biernat) What is this document? 15 A. This document is titled AHAM Analysis of 16 Industry Data On Clothes Dryer Fire Incidents. 17 Q. Where did you get it? 18 A. It was provided to me with the exhibits of 19 a Carl King deposition. 20 Q. What is the relevance of this document to 21 you? 22 A. My recollection is this document talks 23 about the risk of fires associated with dryers; and 24 its relevance is that it is more of a historical 25 document, that it precedes all of these incidents.</p>	<p>1 A. No, ma'am. 2 Q. Did you make any notes of the deposition? 3 A. No, ma'am. 4 Q. You reference the deposition in your 5 report; is that right? 6 A. Yes, ma'am. 7 Q. Is it just one time you referenced the 8 deposition, I think? 9 A. Yes, ma'am. 10 Q. So on Page 6 of your report which we have 11 I think marked as 5 something. 12 A. E. 13 Q. 5-E. I believe this is a paragraph 14 similar, consistent across all eight reports; is that 15 right? 16 A. Yes, ma'am. I believe that is correct. 17 Q. So the report says as it relates to 18 providing safety information regarding the 18-month 19 interval, Electrolux is not consistent in providing 20 this information across all models. When asked what 21 products have on-product warnings to clean the 22 interior of the dryer, Mr. King stated our laundry 23 center has a similar warning. Then it says, I am not 24 aware of any evidence in this matter that an 25 on-product label related to the 18-month interval was</p>

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<p>1 provided on the subject laundry center. Indeed, even  2 if a label to this effect was placed on the subject  3 laundry center, such as is the case for other laundry  4 center models, the reminder of an 18-month interval  5 does not specify when the last service took place or  6 when the next service is needed.</p> <p>7 Now, are you referring to the subject  8 laundry center, that's the laundry center that is the  9 subject of the Blake case?</p> <p>10 A. Yes, ma'am. It is my understanding the  11 subject laundry center in the Blake case, the  12 subject --</p> <p>13 Q. That dryer?</p> <p>14 A. That dryer was classified as a laundry  15 center.</p> <p>16 Q. And so it is your contention that the  17 dryer did not have an on-product label related to the  18 18-month interval.</p> <p>19 A. It is my understanding that that dryer was  20 manufactured in September of 1992 and I believe it is  21 based on that Carl King testimony in the Stout and  22 Coles deposition that he stated the warning, the  23 on-product warning that I referred there of the  24 photographs of the laundry center warning labels was  25 placed on the laundry centers at a future point in</p>	<p>1 that, label on that case was defective because it did  2 not contain information about service being every 18  3 months?</p> <p>4 A. My understanding is there was not an  5 on-product warning for the Blake subject laundry  6 center regarding the 18-month cleaning interval and  7 that information was provided to Blake Capital in the  8 owner's manuals for that product only.</p> <p>9 Q. So the information was provided to Blake  10 Capital, correct?</p> <p>11 A. The information regarding the 18-month  12 cleaning interval was communicated to Blake Capital in  13 the owner's manual.</p> <p>14 Q. Do you have any criticism about the way it  15 was communicated or do you agree that it was  16 communicated adequately?</p> <p>17 A. I do not agree that the requirement for  18 the 18-month cleaning interval was adequately conveyed  19 to Blake Capital.</p> <p>20 Q. Why not?</p> <p>21 A. For some of the reasons we discussed  22 earlier regarding the content of the communication,  23 the high cost of compliance for the individuals who  24 would have received this information, and that the  25 cleaning interval was present only in the owner's</p>
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<p>1 time.</p> <p>2 Q. So it is your understanding based on the  3 Carl King deposition testimony that the dryer at issue  4 did not have an on-product label related to the  5 18-month interval.</p> <p>6 A. It is my understanding that that  7 warning -- that a warning label regarding the 18-month  8 interval was not present on the subject laundry  9 center.</p> <p>10 Q. What is the picture that you provided  11 earlier as one of the exhibits, what laundry center is  12 that from?</p> <p>13 A. I do not know.</p> <p>14 Q. So you quote Mr. King here that says our  15 laundry center had a similar warning. What is the  16 purpose of that quote?</p> <p>17 A. It is to provide some -- to provide a  18 basis that the photographs of the laundry center  19 labels that I was provided are representative of  20 labels provided by Electrolux on laundry centers.</p> <p>21 Q. So is it a criticism, is it an opinion of  22 yours that the label that was on Ms. Blake's or the --  23 not Ms. Blake. Strike that.</p> <p>24 Is it your opinion that the dryer that was  25 involved in the Blake case, the on-product warning on</p>	<p>1 manual and that there was not an either on-product  2 label or some other mechanism to indicate to consumers  3 when service may be needed.</p> <p>4 Q. So let me back up real quick. Okay.  5 Blake Capital received the information that the  6 product should be serviced every 18 months, do you  7 agree with that?</p> <p>8 A. I believe the deposition testimony in the  9 Blake Capital matter is that they did receive the  10 owner's manuals for dryers that they purchased. I am  11 not aware of specific testimony that they received the  12 owner's manual for the subject dryer.</p> <p>13 Q. All right. But do you agree that Blake  14 Capital had received the information that the product  15 needed to be serviced or should be serviced every 18  16 months?</p> <p>17 A. I believe --</p> <p>18 Q. Yes or no. The information is in the  19 owner's manual?</p> <p>20 A. Yes, ma'am. The information is in the  21 owner's manual.</p> <p>22 Q. And they received the owner's manual, they  23 had access to the owner's manual.</p> <p>24 A. My understanding is they had access to the  25 owner's manual, yes, ma'am.</p>

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<p>1 Q. Okay. So they had access to the</p> <p>2 information had they chosen to read it.</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. One of your criticisms of this on-product</p> <p>5 label in general is that there was no reminder</p> <p>6 mechanism for the 18-month interval, correct?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. Correct me if I am wrong, is it your</p> <p>9 opinion that no matter what the label would have said,</p> <p>10 no matter where it was placed and no matter who read</p> <p>11 it, it would still have been defective in your opinion</p> <p>12 because there was no accompanying reminder mechanism?</p> <p>13 A. The label itself would serve as a reminder</p> <p>14 mechanism for consumers who are interacting with the</p> <p>15 dryer. So there is information conveyed to them if</p> <p>16 they choose to avail themselves of it at the time they</p> <p>17 were using the dryer.</p> <p>18 Q. So I am totally confused. Didn't we have</p> <p>19 a big discussion about how the label is inadequate</p> <p>20 because there is no additional reminder mechanism?</p> <p>21 You just said the label itself is a sufficient</p> <p>22 reminder mechanism.</p> <p>23 A. The label itself does convey the 18-month</p> <p>24 interval to dryer users, but it doesn't tell them when</p> <p>25 the last service was performed or the next service is</p>	<p>1 A. No, ma'am.</p> <p>2 Q. When did you arrive at that opinion?</p> <p>3 A. You asked me different -- I believe -- my</p> <p>4 understanding of your question was that you could --</p> <p>5 what other means could be used to inform consumers of</p> <p>6 when service would be required beyond what is included</p> <p>7 on the on-product label. So I was attempting to</p> <p>8 convey that there are more than one means to convey</p> <p>9 that information.</p> <p>10 Q. Any other ways besides warning light,</p> <p>11 point of sale? Anything on the product itself besides</p> <p>12 a warning light, anything that you can identify that</p> <p>13 would be in your opinion an adequate warning with</p> <p>14 respect to the need to perform maintenance on the</p> <p>15 product every 18 months?</p> <p>16 A. As I sit here, I think that's an inclusive</p> <p>17 list, yes, ma'am.</p> <p>18 Q. So is it fair to say it is your opinion</p> <p>19 without a warning light or without point of sale</p> <p>20 reminder about the 18-month-interval maintenance</p> <p>21 requirement that the warning no matter what it says,</p> <p>22 where it is, is inadequate?</p> <p>23 A. For that reason and the other reasons in</p> <p>24 my report, yes, ma'am.</p> <p>25 Q. Well, let's just talk about 18 months.</p>
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<p>1 needed.</p> <p>2 Q. Well, it does tell them. It tells them it</p> <p>3 needs to be done 18 months after the last one, right?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Perhaps I need to understand your opinion</p> <p>6 about this a little bit better. The product needs to</p> <p>7 contain some sort of actual date on it for when the</p> <p>8 service needs to be performed, is that your opinion,</p> <p>9 in order for it to be an adequate warning?</p> <p>10 A. By providing a means for -- to indicate</p> <p>11 when the last service was performed would be one way</p> <p>12 for -- for that information to be communicated to the</p> <p>13 consumer, yes.</p> <p>14 Q. Without that, the product, the warning</p> <p>15 label is defective. Is that your opinion?</p> <p>16 A. There are other means that could be used.</p> <p>17 Q. Such as?</p> <p>18 A. Such as what I have indicated later in my</p> <p>19 report that a warning light could be used to indicate</p> <p>20 to consumers the need for service.</p> <p>21 Q. Anything else?</p> <p>22 A. It is also possible to convey the</p> <p>23 requirement for an 18-month cleaning interval to</p> <p>24 consumers at the point of sale.</p> <p>25 Q. Okay. Is that in your report?</p>	<p>1 Nothing else matters, right, because if it doesn't</p> <p>2 have the 18-month-interval reminder, then it is</p> <p>3 inadequate, no matter what else it says, right?</p> <p>4 A. May I have the question back.</p> <p>5 (The record was read by the reporter.)</p> <p>6 THE WITNESS: I believe the answer is yes,</p> <p>7 ma'am.</p> <p>8 Q. (By Ms. Biernat) Let me ask you about</p> <p>9 your opinion about warning lights. Have you ever</p> <p>10 designed or do you have any experience designing</p> <p>11 appliances?</p> <p>12 A. No, ma'am. I do not have any experience</p> <p>13 designing appliances.</p> <p>14 Q. Do you have any experience in the</p> <p>15 manufacture of appliances?</p> <p>16 A. No, ma'am. I do not have any experience</p> <p>17 in the manufacture of appliances.</p> <p>18 Q. Do you know any other products that have</p> <p>19 warning lights, any other dryers that use warning</p> <p>20 lights?</p> <p>21 A. I have not attempted to conduct an</p> <p>22 analysis of other dryers that use warning lights, no,</p> <p>23 ma'am.</p> <p>24 Q. Where did you come up with the idea that a</p> <p>25 warning light was needed?</p>

<p style="text-align: right;">Page 129</p> <p>1 A. The use of an indicator light would be one  2 means to convey information to the user that service  3 may be needed on their dryer.  4 Q. All right. Can you identify for me any  5 product, any home appliance that uses an indicator  6 light for service?  7 A. As we have defined home appliance, I don't  8 believe I can identify a home appliance that uses an  9 indicator light for when service is required.  10 Q. Okay. We have talked about your car. Any  11 other consumer products that use indicator lights for  12 when service is required?  13 A. I have not attempted to perform an  14 analysis of what other consumer products may use an  15 indicator light for when service is required.  16 Q. So you know of no other products except  17 for an automobile where a warning light is used for  18 when service is required; is that correct?  19 A. I have not performed that analysis. I  20 don't recall any other products at this time that may  21 use a warning light to indicate when service is  22 required.  23 Q. So what is the basis for your opinion that  24 a warning light is required?  25 A. The basis for my opinion as it relates to</p>	<p style="text-align: right;">Page 131</p> <p>1 the dryer, a consumer cannot observe that accumulation  2 of lint when they open the door and look into their  3 dryer. So they need some means to be informed that  4 the condition of the lint accumulation is now  5 increasing the risk of a fire.  6 Q. Okay. But the fact that it says on the  7 product itself lint accumulates and could cause fire,  8 that's to you not sufficient?  9 A. No, ma'am. It is not sufficient because  10 as it relates to that communication, it doesn't tell  11 when the last service was performed, when the next one  12 was needed, or the potential risk from the lint that  13 has accumulated in their dryer.  14 Q. I feel like we are going around in circles  15 here. Give to me an example of how Electrolux could  16 have complied with your standard that they needed to  17 inform the consumer of when the last service was  18 performed and the next service is needed.  19 A. I think we have talked about a couple of  20 different options that Electrolux as a manufacturer  21 could have used to address that concern. One, they  22 could have had a mechanism in place somewhere on the  23 dryer itself to indicate when the last service was  24 performed or the next service was needed.  25 Q. Hold on. So somewhere on the dryer, would</p>
<p style="text-align: right;">Page 130</p> <p>1 the accumulation of lint within the dryer, the  2 Electrolux dryer, is that when the dryer is first  3 placed into service the risk of fire from the lint  4 accumulation is very low and that the dryer is used by  5 the operator over a prolonged period of time and at  6 some point the accumulation of lint within the dryer  7 goes from a safe condition to becoming an unsafe  8 condition.  9 Q. Okay. What is the basis for your opinion  10 other than your understanding that there is a hazard  11 from the buildup of lint that the way to address that  12 is a warning light?  13 A. To indicate to the consumer that when you  14 transitioned from the safe condition to when the  15 unsafe condition may be presenting itself, that's when  16 a consumer needs to be informed that at this point in  17 time service needs to be performed on your dryer.  18 Q. Other than your opinion that you just  19 stated, is there any basis for your opinion that a  20 warning light is the best way to deal with it, or the  21 only way to deal with that essentially?  22 A. I am sure there are other means to  23 communicate to a consumer potentially when the  24 appliance has gone from a safe condition to an unsafe  25 condition. But as it relates to lint accumulating in</p>	<p style="text-align: right;">Page 132</p> <p>1 that be, what, an electronic thing, a paper thing, a  2 digital thing? What would that be?  3 A. It could be just a place on the dryer  4 where they have indicated the date of the last  5 service, just handwritten in --  6 Q. Who is they?  7 A. Whomever performed the service last would  8 be the person who would record the date of either  9 installation or service.  10 Q. Okay. So somewhere on the machine where  11 the person who performed the service, say the owner of  12 the machine, would write that down and then somewhere  13 where they could add on 18 months to remind themselves  14 to do it again?  15 A. Part of this warning requirement is that  16 an authorized service personnel has to conduct the  17 cleaning. So an owner would not necessarily be the  18 person who did the cleaning, performed the cleaning  19 activity.  20 Q. So what is the basis for your opinion that  21 this is a requirement for an adequate warning? Do you  22 have any studies that you rely on that show you that?  23 A. That what would be an adequate warning?  24 Q. That adding on, say, a sticker or some  25 kind of thing on the product where somebody writes</p>



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<p>1 down the last day it was serviced then adds on 18</p> <p>2 months and writes that date down.</p> <p>3 MR. BOERIGTER: Objection. I think that</p> <p>4 misstates his testimony.</p> <p>5 THE WITNESS: I don't believe I have a</p> <p>6 study that I can reference that would address</p> <p>7 that method of communicating when the last date</p> <p>8 of service was performed or when service may be</p> <p>9 required in the future.</p> <p>10 Q. (By Ms. Biernat) Do you have any study or</p> <p>11 any paper or any survey or anything independent of</p> <p>12 your own opinion that supports your opinion that</p> <p>13 consumers need a reminder mechanism otherwise the</p> <p>14 warning is inadequate?</p> <p>15 A. No, ma'am.</p> <p>16 Q. Now, back on to the warning light. Do you</p> <p>17 have any idea how much it costs to install a warning</p> <p>18 light on any dryer?</p> <p>19 A. No, ma'am.</p> <p>20 Q. Do you have any idea how many dryers out</p> <p>21 there contain warning lights on them?</p> <p>22 A. No, ma'am. I have not attempted to</p> <p>23 analyze dryers with regard to warning lights.</p> <p>24 Q. So you don't know how they operate, if</p> <p>25 they operate correctly.</p>	<p>1 dryer.</p> <p>2 Q. So that didn't answer my question. Do you</p> <p>3 have any information or any basis that a consumer</p> <p>4 would heed a warning light more often than a consumer</p> <p>5 would heed a written warning?</p> <p>6 A. No, ma'am.</p> <p>7 MR. BOERIGTER: Can we take a break?</p> <p>8 MS. BIERNAT: Of course.</p> <p>9 (Recess from 2:09 p.m. to 2:18 p.m.)</p> <p>10 Q. (By Ms. Biernat) Let me ask you this,</p> <p>11 consumers don't have to necessarily heed a warning for</p> <p>12 a warning to be adequate, would you agree with that</p> <p>13 statement?</p> <p>14 A. Generally, yes.</p> <p>15 Q. And would you agree with the statement</p> <p>16 that manufacturers have the right to assume that</p> <p>17 warnings will be read and heeded?</p> <p>18 A. Can you separate that for me.</p> <p>19 Q. All right. Can manufacturers have the</p> <p>20 right to assume that warnings will be read?</p> <p>21 A. Yes, ma'am. I think it is reasonable for</p> <p>22 manufacturers to assume that warnings they provide</p> <p>23 will be read.</p> <p>24 Q. Do you agree the fact that some consumers</p> <p>25 may not follow safety information does not make the</p>
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<p>1 A. No, ma'am.</p> <p>2 Q. Do you have any evidence that a consumer</p> <p>3 would heed a warning light any better than they would</p> <p>4 heed a written warning?</p> <p>5 A. No, ma'am. I don't believe I have a study</p> <p>6 I can point you to that would suggest a consumer would</p> <p>7 heed a warning light more than a written warning.</p> <p>8 Q. Is there anything at all you can point me</p> <p>9 to as the basis for your opinion that a consumer would</p> <p>10 heed a warning light any more than they would heed a</p> <p>11 written warning?</p> <p>12 A. I cannot point you to a specific document</p> <p>13 that would suggest a consumer would heed a warning</p> <p>14 light more than a written warning.</p> <p>15 Q. What is the basis of your opinion, then?</p> <p>16 A. The basis for my opinion is that the</p> <p>17 warning that is provided in the instruction manual</p> <p>18 which may be reviewed by the consumer at the time the</p> <p>19 dryer is purchased or relatively close in time to the</p> <p>20 dryer is installed is 18 months removed from the time</p> <p>21 service is needed and if there is a warning light that</p> <p>22 was available to the consumer and that light</p> <p>23 illuminated at the time service was required, that</p> <p>24 would inform the consumer much closer in time that</p> <p>25 based on their usage, it is now time to service their</p>	<p>1 safety information inadequate?</p> <p>2 A. Generally, yes, ma'am, I would agree with</p> <p>3 that statement.</p> <p>4 Q. And so just because a manufacturer decides</p> <p>5 to share information one way, even though there might</p> <p>6 be other ways to do it, does that mean that any one</p> <p>7 particular way is wrong?</p> <p>8 A. As I understand your question, no, ma'am,</p> <p>9 there is not one correct way -- well, only one way to</p> <p>10 communicate safety information to consumers.</p> <p>11 Q. That's absent the caveat if there are some</p> <p>12 regulatory requirements.</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Are there any regulatory requirements with</p> <p>15 respect to warnings for dryers?</p> <p>16 A. I am not aware of any regulatory</p> <p>17 requirements for dryer products, no, ma'am.</p> <p>18 Q. Do you think consumers bear any</p> <p>19 responsibility to comply with recommendations -- let</p> <p>20 me back up with that. Do you agree that consumers</p> <p>21 have any responsibility to comply with warnings</p> <p>22 provided by manufacturers?</p> <p>23 A. I do believe that consumers -- generally I</p> <p>24 do believe consumers have a responsibility to comply</p> <p>25 with safety communications, including warnings</p>

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<p>1 provided by manufacturers, yes.</p> <p>2 Q. To encompass that, they have a</p> <p>3 responsibility to read the warnings, correct?</p> <p>4 A. Generally I would have to say that</p> <p>5 consumers do have a responsibility to read the</p> <p>6 warnings provided to them by the manufacturer.</p> <p>7 Q. And what about for maintaining their</p> <p>8 products, do consumers have a responsibility to</p> <p>9 maintain their products?</p> <p>10 A. That may be a little broad. But yes, I</p> <p>11 would agree that consumers are responsible for</p> <p>12 maintaining their products.</p> <p>13 Q. Now, one of the things that you have</p> <p>14 identified as relying upon in this case are</p> <p>15 depositions from over 100 Electrolux dryer owners.</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Where did you receive these depositions?</p> <p>18 A. From counsel.</p> <p>19 Q. You have some documents related to that,</p> <p>20 correct?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Is this it?</p> <p>23 A. No, ma'am. There is a folder entitled</p> <p>24 Appendix A.</p> <p>25 Q. Exhibit 14 is the folder marked Appendix</p>	<p>1 correct?</p> <p>2 A. That is my understanding, yes, ma'am.</p> <p>3 Q. Are these all subrogation cases as far as</p> <p>4 you know, if you know what that means?</p> <p>5 A. I do not know the context in which all of</p> <p>6 these litigation matters are proceeding.</p> <p>7 Q. Did you look to see how the fire started?</p> <p>8 A. No, ma'am.</p> <p>9 Q. Did you look to see if anybody</p> <p>10 determined -- or did you look to see what the</p> <p>11 investigation of the fire showed?</p> <p>12 A. For some of these matters, I may have been</p> <p>13 provided additional materials that I reviewed. For a</p> <p>14 majority of these matters, the only documentation I</p> <p>15 reviewed was the depositions identified.</p> <p>16 Q. Did you review these to determine whether</p> <p>17 the user read the manual?</p> <p>18 A. I did not review these for that purpose,</p> <p>19 no, ma'am.</p> <p>20 Q. Did you review these to see how the</p> <p>21 machine was installed?</p> <p>22 A. With regard to these dryer depositions</p> <p>23 covered in the Appendix A, I did not review it for</p> <p>24 that purpose.</p> <p>25 Q. You reviewed it only for those two</p>
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<p>1 A. And so this is the depositions, the deposition</p> <p>2 summaries from over a hundred Electrolux dryer fires</p> <p>3 that you have reviewed.</p> <p>4 Have you reviewed all of these hundred</p> <p>5 depositions?</p> <p>6 A. I believe at this point I have reviewed</p> <p>7 all of these deposition, yes, ma'am.</p> <p>8 Q. When reviewing them, what kinds of things</p> <p>9 were you looking for?</p> <p>10 A. Generally I was looking for whether the</p> <p>11 user of the dryer had a custom and practice to clean</p> <p>12 the lint trap and filter and also if it was their</p> <p>13 custom and practice to call a qualified service</p> <p>14 professional to clean the interior of the dryer at the</p> <p>15 18-month interval.</p> <p>16 Q. And then anything else you were looking</p> <p>17 for in these depositions?</p> <p>18 A. Not at that time, no, ma'am.</p> <p>19 Q. Did you look to see how -- all of these</p> <p>20 cases -- these are from actual litigation cases,</p> <p>21 correct?</p> <p>22 A. It is my understanding that they are all</p> <p>23 related to litigation cases, yes, ma'am.</p> <p>24 Q. All these cases are an incident where the</p> <p>25 dryer caught fire allegedly and caused damage,</p>	<p>1 purposes, what the user's custom and practice to clean</p> <p>2 the dryer, the lint filter of the dryer, and to call a</p> <p>3 service provider for 18-month service.</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. What was the purpose for you to do this</p> <p>6 exercise?</p> <p>7 A. I wanted to review these documents to see</p> <p>8 how actual users interacted with their product in</p> <p>9 terms of what activities they may perform regarding</p> <p>10 the lint trap and calling for service when their</p> <p>11 product was not exhibiting any performance</p> <p>12 characteristic -- or performance issues.</p> <p>13 Q. All right. Did you determine in each of</p> <p>14 these cases that the deponent was not experiencing</p> <p>15 user issues? Was that part of what you were looking</p> <p>16 for?</p> <p>17 A. I don't recall at this time.</p> <p>18 Q. So what is the purpose for you to look</p> <p>19 through this other than -- you know, you told me that.</p> <p>20 Let me back up and state it a different way. What</p> <p>21 relevance does your exercise with these depositions</p> <p>22 have to your opinion or to your report?</p> <p>23 A. I wanted to look at Electrolux dryer</p> <p>24 users, consumers who did use their product and</p> <p>25 interacted with their product and use that to suggest</p>

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<p>1 what their custom and practice was with regard to 2 dryer maintenance and then to look at that in 3 combination with the Consumer Product Safety 4 Commission survey to get a better understanding of how 5 consumers perform maintenance activities for their 6 dryer. 7 Q. And did you use this as a basis for any of 8 your opinions in your report? 9 A. Yes, ma'am. I do believe I reference this 10 in the context of my report. 11 Q. And that's with respect to your opinion 12 that, on Page 7 of the Blake report, consumers and 13 entities such as Blake Capital have an expectation 14 that household appliances are typically serviced on an 15 as-needed basis. It is not typical to have service 16 performed on appliances that continue to function and 17 are not exhibiting any indications of a potential 18 issue. In my review of depositions for over 100 19 similar matters it was neither the custom nor the 20 practice for the dryer owners to call qualified 21 service personnel to service their dryers at an 22 18-month interval. 23 So you used your review of these 24 depositions to support that opinion, correct? 25 A. As part of the basis for my opinion, yes,</p>	<p>1 A. Yes, ma'am. The CPSC survey dealt with 2 dryers. 3 Q. Do you have any other basis for the 4 statement that consumers of these household appliances 5 typically have an expectation that they are serviced 6 on an as-needed basis? 7 A. From my review of the deposition testimony 8 and the Consumer Product Safety Commission survey, 9 these were the bases that individuals service 10 appliances on an as-needed basis. 11 Q. Even though those two materials dealt with 12 dryers only, you have extrapolated that to all 13 household appliances. 14 A. Yes, ma'am. 15 Q. Nothing else besides those two documents, 16 or those two bases, that 100 depositions and the CPSC 17 report, support your opinion there. 18 A. Those two sources of information inform my 19 opinion and the basis for that opinion and that is 20 within the context of all the other items I have 21 included for formulating my opinion that the warnings 22 provided were not adequate. 23 Q. I am just trying to find out what other 24 than the world according to Mr. Boelhouwer serve as a 25 basis for that. I mean, we have identified two sets</p>
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<p>1 ma'am. 2 Q. Does your review of those depositions 3 support any of your other opinions? 4 A. As it relates to my opinion in these 5 matters, it speaks to that the warnings regarding 6 cleaning the interior of the dryer would be unlikely 7 to be followed for a variety of reasons, and this is 8 just one of the reasons that helped -- that provides a 9 basis for that opinion. 10 Q. You have the statement here that consumers 11 have an expectation that household appliances -- and 12 you give as examples refrigerators, ovens, cook tops, 13 dishwashers, washing machines, and other similar 14 appliances are typically serviced on an as-needed 15 basis. 16 Is there anything else to support your 17 opinion other than your review of the 100 depositions? 18 A. The Consumer Product Safety Commission 19 reached a similar conclusion in their study. And I 20 also referenced that study as the basis, one of the 21 bases for my opinions that consumers may not call for 22 service for an appliance that is not exhibiting any 23 performance issues. 24 Q. All right. But did the CPSC survey deal 25 only with dryers?</p>	<p>1 of documents, the CPSC survey and your survey of 100 2 depositions. 3 A. It was a review of the 100 depositions. I 4 would not necessarily consider that a survey. Those 5 two documents are the ones I can recall that gave me 6 the primary bases for my opinion for that statement. 7 Q. The hundred depositions, you said it is 8 not a survey when you reviewed them. Can you give me 9 a brief definition of a survey, how you would use it 10 in a professional context. 11 A. Sure. When the term survey is used 12 generally, I would assume that that means something 13 more similar to what the Consumer Product Safety 14 Commission does, whether it is a questionnaire 15 developed, it is provided to a population, responses 16 are received back and some analysis is performed on 17 those responses. 18 Q. Have you ever designed or performed a 19 survey? 20 A. Yes, ma'am. 21 Q. And can you tell me what -- when was that 22 and what it was. 23 A. Yes, ma'am. I performed several 24 computer-based surveys as part of my doctoral 25 research.</p>

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<p>1 Q. Can you give me the subject matter of them</p> <p>2 briefly?</p> <p>3 A. Yes. Those involved chemical hazard</p> <p>4 communication, warning labels, material safety data</p> <p>5 sheets, safety data sheets, and how people were able</p> <p>6 to review those materials and respond to questions</p> <p>7 about those materials.</p> <p>8 Q. And have you conducted any survey with</p> <p>9 respect to your work on these Electrolux fire cases?</p> <p>10 A. No. I believe as I have discussed</p> <p>11 earlier, I have not conducted any survey in these</p> <p>12 areas.</p> <p>13 Q. You haven't spoken to any owners of</p> <p>14 Electrolux dryers, be it ones involved in litigation</p> <p>15 or ones not involved in litigation.</p> <p>16 A. No, ma'am. I have not. I don't believe I</p> <p>17 have spoken to any Electrolux dryer owners.</p> <p>18 Q. Have you ever heard of the term selection</p> <p>19 bias?</p> <p>20 A. Yes, ma'am. I have heard of the term</p> <p>21 selection bias.</p> <p>22 Q. What does that mean?</p> <p>23 A. Selection bias, my understanding is that</p> <p>24 the -- you may not have a population that is</p> <p>25 representative of all of the potential user</p>	<p>1 got pregnant it is because they didn't take the pill,</p> <p>2 they didn't have a sufficient reminder to take the</p> <p>3 pill, because it is too hard to remember every day.</p> <p>4 That would not be a proper selection of people to</p> <p>5 interview about the efficacy of birth control. Does</p> <p>6 that make sense? That's the first thing that came to</p> <p>7 my mind when we looked at the 100 dryer fire</p> <p>8 depositions. Anyway.</p> <p>9 Let's talk about your costs of compliance</p> <p>10 opinion. We have discussed that a little bit already.</p> <p>11 I just wanted to finish discussing that. Your opinion</p> <p>12 in this Blake report, which is the same across all</p> <p>13 eight reports, is that the cost of compliance is</p> <p>14 simply too high for many dryer owners to comply with</p> <p>15 the warning, Page 6. It is on Page 6.</p> <p>16 So you have told me before that you rely</p> <p>17 on this article from Dingus, Hathaway, and Hunn as</p> <p>18 well as another article from Rogers, Lamson, and</p> <p>19 Rousseau for support for this opinion here. Is that</p> <p>20 correct?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Then it looks like you rely on the CPSC</p> <p>23 statement that says a service call to clean the</p> <p>24 accumulated lint within the dryer can be costly and</p> <p>25 inconvenient to the consumer therefore the consumer</p>
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<p>1 population.</p> <p>2 Q. Do you contend that the population</p> <p>3 contained in the deponents, the 100 deponents whose</p> <p>4 depositions you have reviewed, are representative of</p> <p>5 the population of dryer users?</p> <p>6 A. No, ma'am.</p> <p>7 Q. So you don't make that contention,</p> <p>8 correct?</p> <p>9 A. As I understand your question, no, ma'am.</p> <p>10 Q. So you agree that at least some, if not</p> <p>11 all, of those deponents either did not read or did not</p> <p>12 heed the warnings provided to them with respect to the</p> <p>13 maintenance on their dryer.</p> <p>14 A. My review of their testimony is no, they</p> <p>15 did not heed the communications to have their dryer</p> <p>16 serviced at an 18-month interval.</p> <p>17 Q. And they all experienced an adverse result</p> <p>18 either due to the failure to heed the warnings or some</p> <p>19 other reason.</p> <p>20 A. My understanding is that all of these</p> <p>21 individuals did have some relationship to a dryer fire</p> <p>22 occurring, yes, ma'am.</p> <p>23 Q. That's almost the way -- the first thing I</p> <p>24 thought about it was all the women in the maternity</p> <p>25 ward, when you interview them and ask them why they</p>	<p>1 may overlook performing the maintenance task until</p> <p>2 there is something wrong with the dryer. Is that</p> <p>3 something you rely on for your opinion?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Is it your opinion that because of the</p> <p>6 cost of compliance with the warning that there can</p> <p>7 never be an adequate warning for the hazard of fire on</p> <p>8 Electrolux dryers?</p> <p>9 A. If the avoidance mechanism for that hazard</p> <p>10 is the requirement to have their dryer serviced by an</p> <p>11 authorized service provider in an 18-month interval,</p> <p>12 no, ma'am, I don't think it could have an adequate</p> <p>13 warning to address this hazard.</p> <p>14 Q. Put a different way, because of the risk</p> <p>15 of fire that we have determined through review of FEMA</p> <p>16 and NFPA, CPSC, other documents is prevalent across</p> <p>17 all dryers, there can never be an adequate warning for</p> <p>18 addressing that risk if one of the ways to avoid the</p> <p>19 risk is to have your dryer serviced.</p> <p>20 A. It may be possible to have an adequate</p> <p>21 warning to address that hazard. But as it relates to</p> <p>22 these matters, the -- it is possible that the</p> <p>23 characteristics of the Electrolux design are different</p> <p>24 than other manufacturers so therefore the design of</p> <p>25 their dryers may or may not have a higher risk of</p>



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<p>1 fire.</p> <p>2 Q. All right. First off, do you have any</p> <p>3 basis for the statement that the design of Electrolux</p> <p>4 dryers is different than the other dryers on the</p> <p>5 market?</p> <p>6 A. Yes, ma'am. I am aware that there are</p> <p>7 different designs of dryers on the market.</p> <p>8 Q. And is it your opinion that the Electrolux</p> <p>9 dryer has a higher rate of fire than any other dryer</p> <p>10 on the market?</p> <p>11 A. I do not know.</p> <p>12 Q. So you do not have that opinion?</p> <p>13 A. I do not know.</p> <p>14 Q. You have no basis for the statement that</p> <p>15 Electrolux dryers are involved in a higher rate of</p> <p>16 incidence of fire than any other dryers, correct?</p> <p>17 A. No, ma'am.</p> <p>18 Q. So you have no basis for the opinion you</p> <p>19 just stated, if it was indeed your opinion, that the</p> <p>20 design of the Electrolux dryers leads to fires?</p> <p>21 A. That's outside my area. I am not a dryer</p> <p>22 design expert, no.</p> <p>23 Q. So you would agree that the design of the</p> <p>24 Electrolux dryer is outside your area of expertise.</p> <p>25 A. Yes, ma'am.</p>	<p>1 high of the warnings, no matter what they are,</p> <p>2 including a warning light, are inadequate?</p> <p>3 A. No, ma'am. My analysis incorporates all</p> <p>4 of these factors, the language used to convey the</p> <p>5 requirement for the warning, the cost of compliance,</p> <p>6 the indicator -- the use of indicator lights, all of</p> <p>7 these factors combined together speak to why the</p> <p>8 warnings may not or are not adequate for the</p> <p>9 Electrolux dryers.</p> <p>10 Q. But it seems to me that the cost of</p> <p>11 compliance is the ultimate trump because no matter</p> <p>12 what you do -- let me ask you this. If you had a</p> <p>13 warning light indicator that indicates when the</p> <p>14 product needed to be serviced, wouldn't the person</p> <p>15 still have to schedule service and wouldn't the cost</p> <p>16 of compliance still be too high in your opinion?</p> <p>17 A. The inconvenience to the consumer is one</p> <p>18 aspect of the cost of compliance, yes, ma'am.</p> <p>19 Q. What are the other aspects of the cost of</p> <p>20 compliance?</p> <p>21 A. In this circumstance, actually the cost of</p> <p>22 having your dryer serviced as well is another cost of</p> <p>23 compliance.</p> <p>24 Q. So let's get back to my question, then,</p> <p>25 which is even if there is a warning light to alert the</p>
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<p>1 Q. So any opinions about the adequacy of the</p> <p>2 design, a change in design, anything like that is</p> <p>3 outside your area of expertise, correct?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Any opinion regarding how the design of</p> <p>6 the Electrolux dryer relates to the design of other</p> <p>7 dryers? That is also outside your area of expertise,</p> <p>8 correct?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. So let's get back to this whole idea of</p> <p>11 cost of compliance. Is it your opinion that the cost</p> <p>12 of compliance -- you said the cost of compliance is</p> <p>13 simply too high. The fact that you decided it is too</p> <p>14 high, does that mean there is never an adequate</p> <p>15 warning for Electrolux dryers for the risk of fire?</p> <p>16 A. As it relates to Electrolux dryers and the</p> <p>17 18-month-cleaning-interval requirement to have the</p> <p>18 service performed by an authorized service personnel,</p> <p>19 I don't believe can be an adequate requirement, no,</p> <p>20 ma'am.</p> <p>21 Q. It doesn't matter what it says. It could</p> <p>22 have Mickey Mouse on all the warning labels, that</p> <p>23 stuff is irrelevant. It could have flashing red</p> <p>24 lights. It could have warning light indicators. None</p> <p>25 of that matters because the cost of compliance is too</p>	<p>1 customer to service the machine after 18 months,</p> <p>2 doesn't that hurdle of the cost of compliance still</p> <p>3 need to be -- still in the way?</p> <p>4 A. Yes, ma'am. The cost in terms of the</p> <p>5 monetary cost and the inconvenience to the consumer</p> <p>6 still would have to be overcome.</p> <p>7 Q. So no matter what Electrolux does, even if</p> <p>8 they put a state-of-the-art warning indicator, all of</p> <p>9 that is inadequate because the cost of compliance in</p> <p>10 your opinion is too high, correct?</p> <p>11 A. For that reason and the other reasons in</p> <p>12 my report, yes, ma'am.</p> <p>13 Q. What other reasons in your report? I am</p> <p>14 asking you the cost of compliance, even if you drafted</p> <p>15 the warning yourself and they came and they put a</p> <p>16 warning light on there, the fact that you still have</p> <p>17 to call somebody to service, to come out, pay them, be</p> <p>18 there, et cetera, whatever the costs to the consumer</p> <p>19 are to do that, that in your opinion is too high and</p> <p>20 renders any warning inadequate.</p> <p>21 A. As I understand your question, yes, ma'am.</p> <p>22 Q. Back to your report for the Blake case.</p> <p>23 Page 6, one of your opinions is the phrase "interior</p> <p>24 of the dryer is ambiguous" and could reasonably be</p> <p>25 interpreted to refer to portions of the dryer that are</p>

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<p>1 visible upon opening the door.</p> <p>2 What is the basis for your statement</p> <p>3 there?</p> <p>4 A. May I pull one of the manuals?</p> <p>5 Q. Please do.</p> <p>6 A. Okay.</p> <p>7 Q. Go ahead. What is the basis for your</p> <p>8 statement there?</p> <p>9 A. So as it relates to the laundry center</p> <p>10 owner's guide for the Blake matter which I am</p> <p>11 referencing document PN 1317817009808 which is P10 of</p> <p>12 my materials.</p> <p>13 MS. BIERNAT: Is that a copy that we can</p> <p>14 mark?</p> <p>15 (Boelhouwer Exhibit 26 was marked for</p> <p>16 identification.)</p> <p>17 Q. (By Ms. Biernat) So the basis for your</p> <p>18 statement is?</p> <p>19 A. Yes, ma'am. On Page 3 of the manual, it</p> <p>20 uses the term "interior of the dryer" as it relates to</p> <p>21 the cleaning, the lint screening housing, and the</p> <p>22 exhaust duct at the 18-month interval.</p> <p>23 Q. Okay.</p> <p>24 A. So it is my opinion that the term</p> <p>25 "interior of the dryer" here is not clear as to what</p>	<p>1 time. An excessive amount of lint buildup could</p> <p>2 result in inefficient drying and possible fire hazard.</p> <p>3 Q. And do you have any opinion about whether</p> <p>4 an authorized servicer would not know what is meant by</p> <p>5 the term "dryer cabinet interior and exhaust"?</p> <p>6 A. I have no opinion what an authorized</p> <p>7 servicer may or may not know.</p> <p>8 Q. Have you done any surveys of any consumers</p> <p>9 to determine whether the term "interior of the dryer"</p> <p>10 is ambiguous?</p> <p>11 A. I have not surveyed any consumers to</p> <p>12 determine if the phrase "interior of the dryer" is</p> <p>13 ambiguous.</p> <p>14 Q. Have you viewed or read any publication at</p> <p>15 all that supports your opinion that the phrase</p> <p>16 "interior of the dryer" is ambiguous?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. What is that?</p> <p>19 A. On Page 13 of this same document, at the</p> <p>20 top of the page, it discusses -- there is a warning,</p> <p>21 safety alert symbol, a signal word, and then it</p> <p>22 addresses two bullet points. One states, Before</p> <p>23 cleaning the washer or dryer interior, unplug the</p> <p>24 electrical power cord to avoid electrical shock</p> <p>25 hazards. The second bullet states, Do not use any</p>
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<p>1 is intended to the consumer and whether that is when</p> <p>2 they open the door to the dryer and look inside the</p> <p>3 dryer and that is considered the interior, or if it</p> <p>4 means something else about some other aspect of the</p> <p>5 dryer.</p> <p>6 Q. Okay. Does it say to follow up on Page 6,</p> <p>7 see care and cleaning on Page 6?</p> <p>8 A. On the document I am looking at says see</p> <p>9 care and cleaning, Pages 12 dash 13.</p> <p>10 Q. Okay. What does it say on Pages 12 and</p> <p>11 13?</p> <p>12 A. Page 13 addresses the care and cleaning of</p> <p>13 the product. And Page 12 talks about features and</p> <p>14 also common drying problems.</p> <p>15 Q. So like troubleshooting would be Page 12,</p> <p>16 bottom.</p> <p>17 A. Generally speaking, yes.</p> <p>18 Q. So on this Page 13 under the heading</p> <p>19 Inside the Dryer, what does it say, the last bullet</p> <p>20 point, No. 4?</p> <p>21 A. Under the heading of Inside the Dryer on</p> <p>22 Page 13, it states if the dryer drum -- I apologize.</p> <p>23 It states, Every 18 months an authorized servicer</p> <p>24 should clean the dryer cabinet interior and exhaust</p> <p>25 duct. These areas can collect lint and dust over</p>	<p>1 type spray cleanser when cleaning dryer interior.</p> <p>2 Hazardous fumes or electrical shock could occur.</p> <p>3 Q. And how does that support your opinion</p> <p>4 that the term "inside the dryer" is ambiguous?</p> <p>5 A. It is not clear from that use of the term</p> <p>6 "dryer interior" which my interpretation is at the top</p> <p>7 of Page 13, that warning statement is directed to a</p> <p>8 consumer to perform some maintenance activity</p> <p>9 regarding their dryer interior.</p> <p>10 Q. And other than the document itself, you</p> <p>11 have no external document to support your opinion that</p> <p>12 the average consumer would not understand that.</p> <p>13 A. Based on my review of the deposition</p> <p>14 testimony of some of the insureds that we discussed</p> <p>15 earlier and also some of insureds in this matter, it</p> <p>16 was unclear to those individuals what was meant by</p> <p>17 that -- the interior of the dryer statement in their</p> <p>18 deposition testimony.</p> <p>19 Q. So you are relying on the people who had</p> <p>20 the fires, who didn't follow the directions in the</p> <p>21 first place; is that correct?</p> <p>22 A. I think the consumers who didn't follow</p> <p>23 the directions may be a little broad. With regard to</p> <p>24 the 18-month cleaning-interval item, I tend to agree</p> <p>25 they did not follow that admonishment.</p>

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<p>1 Q. Well, you don't know as you sit here today</p> <p>2 how each of those fires started or what the cause of</p> <p>3 those fires was in those hundred depositions; is that</p> <p>4 accurate?</p> <p>5 A. I do not know what the root cause of the</p> <p>6 fires was in each of those depositions. However,</p> <p>7 Electrolux does identify for us in their warning on</p> <p>8 Page 3 that an excessive amount of lint buildup in</p> <p>9 these areas could result in inefficient drying and</p> <p>10 possible fire.</p> <p>11 Q. Which we have already discussed is the</p> <p>12 hazard, correct, that needs to be identified?</p> <p>13 A. One of the hazards. Yes, ma'am.</p> <p>14 Q. The next bullet point you have on Page 6</p> <p>15 of the Blake report, Most dryer owners would have</p> <p>16 difficulty incorporating an 18-month interval into</p> <p>17 their schedule. What is the basis for that statement?</p> <p>18 A. It is my opinion that an 18-month interval</p> <p>19 is an arbitrary amount of time. I haven't seen any</p> <p>20 evidence in these matters to establish why that number</p> <p>21 was selected by Electrolux. It is not a common</p> <p>22 frequency of time that consumers may have -- they may</p> <p>23 identify with better in terms of weekly, monthly,</p> <p>24 yearly.</p> <p>25 Q. You said you haven't seen any evidence why</p>	<p>1 not.</p> <p>2 Q. It is relevant to you on some level. Can</p> <p>3 you tell me what level it is relevant to you on?</p> <p>4 A. From the time that the owner is provided</p> <p>5 with the owner's guide at the time when they purchased</p> <p>6 the dryer, that 18 months is a substantial amount of</p> <p>7 time into the future to remember a maintenance</p> <p>8 requirement for their product.</p> <p>9 Q. I mean, is it important why Electrolux</p> <p>10 decided to recommend service every 18 months?</p> <p>11 A. Yes. It is important to understand why</p> <p>12 Electrolux would identify 18 months would be the</p> <p>13 interval of time when they feel service was required</p> <p>14 to address the potential lint accumulations inside a</p> <p>15 dryer cabinet.</p> <p>16 Q. Why? What relevance does it have?</p> <p>17 A. Electrolux in my opinion would have had to</p> <p>18 consider that at some point in the future that the</p> <p>19 amount of lint accumulation interior to the dryer</p> <p>20 could be an increased risk of fire to the consumer and</p> <p>21 over time the lint accumulates in the area of the</p> <p>22 dryer where the consumer cannot see it.</p> <p>23 Q. In which case they advised the consumer to</p> <p>24 get it serviced every 18 months, right?</p> <p>25 A. Yes, ma'am. They do advise the consumer</p>
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<p>1 Electrolux established that time or set that time.</p> <p>2 Have you asked for any evidence for why Electrolux set</p> <p>3 the 18-month interval?</p> <p>4 A. I have not asked for any evidence. I am</p> <p>5 just relying upon the deposition transcript of the</p> <p>6 Electrolux employees that I have reviewed.</p> <p>7 Q. Is it important why they set the 18-month</p> <p>8 interval, or relevant, I guess?</p> <p>9 A. At some level I believe it is relevant as</p> <p>10 to why they selected the 18-month interval, yes,</p> <p>11 ma'am.</p> <p>12 Q. What is the basis for your opinion that it</p> <p>13 is arbitrary?</p> <p>14 A. That the Electrolux employee depositions I</p> <p>15 have reviewed cannot provide the basis for why that</p> <p>16 was selected.</p> <p>17 Q. Which deposition are you referring to?</p> <p>18 A. I don't recall.</p> <p>19 Q. Do you recall the gist of the testimony</p> <p>20 that you are thinking of?</p> <p>21 A. I believe the gist of the testimony was</p> <p>22 that the 18-month requirement is present in the</p> <p>23 instruction manuals and did that individual when</p> <p>24 asked, could they identify how that conclusion -- how</p> <p>25 that 18-month interval was reached, and they could</p>	<p>1 to have it serviced every 18 months.</p> <p>2 Q. So it is relevant to you because it shows</p> <p>3 that Electrolux has knowledge that lint can build up</p> <p>4 over time in the dryer and cause a fire hazard, right?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. But Electrolux addresses that hazard by</p> <p>7 advising the consumer on how to avoid the hazard,</p> <p>8 correct?</p> <p>9 A. Electrolux does provide a means of</p> <p>10 avoidance. However, cost of compliance with that</p> <p>11 avoidance mechanism as we discussed earlier is very</p> <p>12 high for the consumer. And also if their dryer is not</p> <p>13 exhibiting any performance issues, it is very</p> <p>14 difficult for the consumer to say I dried my load of</p> <p>15 clothes today, but tomorrow if I do not have this</p> <p>16 service performed, I have a -- at some point they are</p> <p>17 going to transition from a safe condition which is</p> <p>18 their benign experience to an unsafe condition where</p> <p>19 the next load of laundry, the next load of materials</p> <p>20 dried in the dryer leads to a fire.</p> <p>21 Q. Now, let me go back to this question and</p> <p>22 close it out. The basis for your statement that most</p> <p>23 dryer owners who have difficulty incorporating an</p> <p>24 18-month interval into their schedule is based on</p> <p>25 what? It is based on your review of the hundred</p>

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<p>1 depositions, correct?</p> <p>2 A. (Witness nods head.)</p> <p>3 Q. Anything else that you can point to that</p> <p>4 that is based on?</p> <p>5 A. A portion of that would be based on the</p> <p>6 Consumer Product Safety Commission survey. As I sit</p> <p>7 here, those are the documents that I would recall,</p> <p>8 yes, ma'am.</p> <p>9 Q. Why is it unreasonable for a consumer to</p> <p>10 want to maintain his or her appliance in a safe</p> <p>11 condition rather than wait until there is a problem in</p> <p>12 order to fix the appliance?</p> <p>13 A. Generally consumers when they use their</p> <p>14 dryer or appliance if there is not a performance issue</p> <p>15 that provides them feedback of an unsafe condition</p> <p>16 would not have a -- would not develop -- would not</p> <p>17 have an increased concern about having their dryer</p> <p>18 serviced.</p> <p>19 Q. So as we have already discussed, we talked</p> <p>20 about that already, the only basis for your statement</p> <p>21 that you just made, the broad statement, is the review</p> <p>22 of the hundred depositions and a part of the CPSC</p> <p>23 survey, correct?</p> <p>24 A. Those are the documents I would suggest</p> <p>25 that support my opinion and also that the users'</p>	<p>1 Q. Wouldn't you say that's the prudent thing</p> <p>2 to do?</p> <p>3 A. Generally speaking, yes, ma'am.</p> <p>4 Q. Let's move on down -- okay. Portion 2 of</p> <p>5 the Blake report, I am sorry, subsection 2, Lack of</p> <p>6 User Feedback Related to Lint Accumulation. We have</p> <p>7 already discussed this section. We have discussed</p> <p>8 Whirlpool as well.</p> <p>9 Let me ask you specifically with respect</p> <p>10 to the Blake case, what is your understanding that the</p> <p>11 resident of the property, of the apartment of Lisa</p> <p>12 Christensen, did not have access to the manual?</p> <p>13 A. I don't recall what Ms. Christensen's</p> <p>14 testimony was in the Blake matter, no, ma'am.</p> <p>15 Q. She never had the opportunity to read the</p> <p>16 safety information set forth in the manual. Do you</p> <p>17 have any understanding if that's accurate?</p> <p>18 A. My understanding of Ms. Christensen --</p> <p>19 that she did not have opportunity review the</p> <p>20 information in the owner's guide, yes, ma'am.</p> <p>21 Q. So does that have any relevance at all to</p> <p>22 your opinion in this case?</p> <p>23 A. No, ma'am. I don't believe it does, in</p> <p>24 the Blake matter.</p> <p>25 Q. So if she failed to have the machine</p>
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<p>1 experience in using the dryer plays a role in that as</p> <p>2 well.</p> <p>3 Q. What user experience? How would you know</p> <p>4 of the user experience? Have you done any surveys of</p> <p>5 users of these products?</p> <p>6 A. I have not done any surveys of the users</p> <p>7 of these products, no, ma'am.</p> <p>8 Q. So how can you possibly say other than</p> <p>9 your reliance on those two other documents or sources</p> <p>10 that we have discussed that the users' experience</p> <p>11 would support your opinion that somebody doesn't</p> <p>12 service their dryer until there is a problem? I am</p> <p>13 looking for anything that supports it other than what</p> <p>14 you are coming up with. We have talked about two</p> <p>15 sources. Is there anything other than those two</p> <p>16 sources that supports your opinion?</p> <p>17 A. Not that I recall, ma'am.</p> <p>18 Q. It is not unreasonable -- would you agree</p> <p>19 with me it is not unreasonable for a consumer to want</p> <p>20 to maintain the safety of his or her appliance by</p> <p>21 servicing it before there is a problem, correct?</p> <p>22 A. Generally speaking, it would not be</p> <p>23 unreasonable for a consumer to want to make sure,</p> <p>24 ensure their product is in a safe condition, yes,</p> <p>25 ma'am.</p>	<p>1 serviced, the fact that she didn't have the</p> <p>2 information available to her, that has no -- well, let</p> <p>3 me actually back up before we go ahead.</p> <p>4 We talked about the cost of compliance</p> <p>5 although I still am having trouble getting over that</p> <p>6 one. We talked about the warning light. Do you have</p> <p>7 any opinion about what language should have been</p> <p>8 provided in the on-product warning label in this case</p> <p>9 that would have been adequate?</p> <p>10 A. As I understand your question, no, ma'am,</p> <p>11 I do not.</p> <p>12 Q. So do you have any opinion about what</p> <p>13 warnings if provided in the owner's manual would have</p> <p>14 been adequate?</p> <p>15 A. I believe in the owner's manual as it</p> <p>16 relates to the Blake matter, I have outlined those</p> <p>17 reasons in my report and we discussed those earlier</p> <p>18 today.</p> <p>19 Q. Do you have any affirmative language that</p> <p>20 you believe would be adequate?</p> <p>21 A. Not at this time, no, ma'am.</p> <p>22 Q. Do you believe there is a way absent</p> <p>23 putting on a warning indicator that Electrolux could</p> <p>24 have provided an adequate warning to the consumers of</p> <p>25 this dryer in this case?</p>



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<p>1 A. As I understand your question, no, ma'am.</p> <p>2 Q. Is it your understanding -- well, is it --</p> <p>3 do you believe that had a warning light been put on</p> <p>4 this dryer, a feedback device, that that would have</p> <p>5 provided an adequate warning for this dryer with</p> <p>6 respect to the risk of fire?</p> <p>7 A. My understanding in the Blake matter is</p> <p>8 that Ms. Christensen was leasing an apartment and that</p> <p>9 she was using the dryer in her apartment and that if</p> <p>10 there was an indicator light that appeared on her -- I</p> <p>11 cannot -- I cannot state what Ms. Christensen would or</p> <p>12 would not have done in this circumstance, no, ma'am.</p> <p>13 Q. Absent what she would or wouldn't have</p> <p>14 done because as we already discussed the adequacy of</p> <p>15 warnings is not necessarily dependent on what the</p> <p>16 ultimate user does, in your opinion had a warning</p> <p>17 light or indicator been put on the dryer used in the</p> <p>18 Blake case, would that have constituted an adequate</p> <p>19 warning of the risk of the hazard of fire?</p> <p>20 MR. BOERIGTER: I object. Incomplete</p> <p>21 hypothetical.</p> <p>22 MS. BIERNAT: Probably an incomplete</p> <p>23 sentence, too.</p> <p>24 Q. (By Ms. Biernat) One of your opinions in</p> <p>25 this case is that a feedback system must be employed</p>	<p>1 our warnings are not adequate. I am asking you what</p> <p>2 we could have done to make them adequate. One way you</p> <p>3 said was we could have incorporated feedback to users.</p> <p>4 Would that have made the warning adequate?</p> <p>5 A. Feedback to users is one aspect of making</p> <p>6 the warning adequate, but it still doesn't address all</p> <p>7 of my concerns with regard to cleaning the dryer at</p> <p>8 the 18-month interval.</p> <p>9 Q. You have no opinion on what different</p> <p>10 language we could have used either on the product or</p> <p>11 in the manual itself, correct?</p> <p>12 A. No, ma'am. I don't believe I have an</p> <p>13 opinion with regard to that at this time.</p> <p>14 Q. So the two things that you are concerned</p> <p>15 with are, No. 1, a reminder about the 18-month</p> <p>16 interval; and No. 2, the cost of compliance with the</p> <p>17 18-month interval.</p> <p>18 A. Those are two of my concerns, yes, ma'am.</p> <p>19 Q. Any other concerns?</p> <p>20 A. As we have discussed the interior of the</p> <p>21 dryer, the ambiguous nature of the interior of the</p> <p>22 dryer, and also the consumer's awareness of this</p> <p>23 hazard of lint buildup in their dryer may not be well</p> <p>24 known to users.</p> <p>25 Q. All right. It is your contention -- you</p>
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<p>1 to alert consumers about their increased risk. You</p> <p>2 have made a statement that we could have incorporated</p> <p>3 feedback to users based on either time or usage. Had</p> <p>4 this dryer incorporated a feedback system based on</p> <p>5 either time or usage, would you then have -- would the</p> <p>6 warning be adequate with respect to the risk of fire?</p> <p>7 A. In regards to the Blake matter, I</p> <p>8 cannot -- with respect to the Blake matter, I am not</p> <p>9 sure I can conclude that had an indicator light been</p> <p>10 present the fire would have been avoided.</p> <p>11 Q. I am not asking you that question. My</p> <p>12 question is was the warning adequate, would the</p> <p>13 warning then be adequate in your opinion.</p> <p>14 I will back up. I don't think you can say</p> <p>15 within a reasonable degree of scientific certainty in</p> <p>16 any of these cases that the lack of warning or the</p> <p>17 warning -- strike that. Go ahead. Let's go back to</p> <p>18 my question.</p> <p>19 (The record was read by the reporter.)</p> <p>20 MR. BOERIGTER: Objection again,</p> <p>21 incomplete hypothetical.</p> <p>22 THE WITNESS: I am not sure I have enough</p> <p>23 information to make that assessment.</p> <p>24 Q. (By Ms. Biernat) What information do you</p> <p>25 need to make the assessment? You put the opinion that</p>	<p>1 don't have any other phrase that could be substituted</p> <p>2 for interior of the dryer that would be unambiguous,</p> <p>3 or do you?</p> <p>4 A. Not at this time, no.</p> <p>5 Q. You can't say whether or not a warning, a</p> <p>6 feedback system on the Electrolux dryer would have</p> <p>7 made Electrolux dryer's warning with respect to fire</p> <p>8 adequate?</p> <p>9 A. No, ma'am.</p> <p>10 Q. You have the statement with respect to the</p> <p>11 subject dryer, Electrolux could have incorporated</p> <p>12 feedback to users based on either time or usage to</p> <p>13 inform users that the interior of the dryer would need</p> <p>14 to be cleaned by qualified service person.</p> <p>15 What is your basis for your opinion that</p> <p>16 Electrolux could have incorporated this feedback</p> <p>17 system?</p> <p>18 A. It was my opinion that communication to</p> <p>19 the user would have been technologically feasible.</p> <p>20 Q. Based on what? You have already said you</p> <p>21 are not a design expert, correct?</p> <p>22 A. Correct.</p> <p>23 Q. You have not done a survey of any other</p> <p>24 products, at all, whatever, except for your car that</p> <p>25 incorporates a feedback system, correct?</p>

<p style="text-align: right;">Page 169</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. So what is the basis for your statement it</p> <p>3 would have been technologically feasible?</p> <p>4 A. It is my experience and my background that</p> <p>5 it is possible for an electrical appliance to have an</p> <p>6 electrical light that could illuminate. That's my</p> <p>7 basis.</p> <p>8 Q. That an electrical appliance can have an</p> <p>9 electrical light that can illuminate. Under what</p> <p>10 circumstance?</p> <p>11 A. Again, we are getting outside my area --</p> <p>12 Q. Let's just say you have no expertise and</p> <p>13 no basis for your statement that Electrolux could have</p> <p>14 incorporated a feedback system; is that accurate?</p> <p>15 A. No. I don't think that's accurate.</p> <p>16 Q. I still haven't received the statement</p> <p>17 that tells me what you relied on for that statement,</p> <p>18 they could technically have done it.</p> <p>19 A. Part of the basis of my opinion there is</p> <p>20 what we discussed earlier today, the Whirlpool</p> <p>21 appliance that did incorporate a feedback mechanism.</p> <p>22 Q. That was with respect to the lint filter,</p> <p>23 correct?</p> <p>24 A. With respect to the lint filter, yes,</p> <p>25 ma'am.</p>	<p style="text-align: right;">Page 171</p> <p>1 Q. (By Ms. Biernat) Have you read any of the</p> <p>2 reports of Christine Wood in these cases?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. Do you have any criticisms of her report?</p> <p>5 A. To the extent that Christine reaches</p> <p>6 different conclusions than I do with regard to some of</p> <p>7 the safety communications provided by Electrolux, yes,</p> <p>8 ma'am.</p> <p>9 Q. Any other criticisms besides the opinion</p> <p>10 itself?</p> <p>11 A. If you could point me to something</p> <p>12 specific. As I sit here, I don't recall.</p> <p>13 Q. That's fine. I just didn't know if you</p> <p>14 had -- well, I thought I would ask. All right.</p> <p>15 Let's talk about the Brossard case.</p> <p>16 A. Okay.</p> <p>17 Q. So the first section of your report is the</p> <p>18 same, correct, meaning qualifications?</p> <p>19 A. I believe so, yes, ma'am.</p> <p>20 Q. We have gone through what the</p> <p>21 additional -- we have gone through the material</p> <p>22 reviewed that is common to every case, correct?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. What is your understanding of the</p> <p>25 circumstances of the Brossard case? What are the</p>
<p style="text-align: right;">Page 170</p> <p>1 Q. That was something provided to you by</p> <p>2 counsel, correct?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. That was something you did not investigate</p> <p>5 yourself, correct?</p> <p>6 A. No, ma'am.</p> <p>7 Q. You have no understanding of how well that</p> <p>8 worked, right?</p> <p>9 A. Of how well the lint signal -- I do not</p> <p>10 have an understanding of how well the lint signal</p> <p>11 worked on the Whirlpool appliance, no, ma'am.</p> <p>12 Q. The Whirlpool appliance lint signal did</p> <p>13 not apply to any lint in the interior of the dryer</p> <p>14 other than the lint filter, correct?</p> <p>15 A. It is my opinion -- that is correct. No,</p> <p>16 ma'am.</p> <p>17 Q. So that is the only basis for that</p> <p>18 statement, your review of a 1994 care and use guide</p> <p>19 from Whirlpool, correct?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. Let's move onto the next case. We have</p> <p>22 seven more to do in 45 minutes. Let's do it.</p> <p>23 A. Can we take a quick break?</p> <p>24 MS. BIERNAT: Go ahead.</p> <p>25 (Recess from 3:18 p.m. to 3:30 p.m.)</p>	<p style="text-align: right;">Page 172</p> <p>1 relevant facts to you in your opinions?</p> <p>2 A. My opinions in the Brossard matter again</p> <p>3 relate to the guidance provided in the Frigidaire</p> <p>4 owner's guide relating to cleaning the interior of the</p> <p>5 lint screen and the recommended service interval.</p> <p>6 Q. When you say cleaning the interior of the</p> <p>7 lint screen, you mean that first paragraph there,</p> <p>8 under Facts and Opinions, Paragraph 1?</p> <p>9 A. That is the first of my opinions in the</p> <p>10 Brossard matter, yes, ma'am.</p> <p>11 Q. And you are referring to Page 2 of the</p> <p>12 owner's guide.</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Is there anything in particular about this</p> <p>15 Page 2 that you have criticism about?</p> <p>16 A. My criticisms of Page 2 in the Brossard</p> <p>17 matter are very similar to what we have previously</p> <p>18 discussed for the Blake matter.</p> <p>19 Q. Is there anything different in this than</p> <p>20 we discussed in the Blake matter?</p> <p>21 A. As I sit here, I do not recall any</p> <p>22 differences in my opinions in the Brossard matter from</p> <p>23 the Blake matter.</p> <p>24 Q. Any facts of the case -- well, let's back</p> <p>25 up. You reviewed the depositions of Ms. Brossard,</p>

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<p>1 Mr. Brossard, you have reviewed photographs taken by</p> <p>2 the cause and origin investigator. You have reviewed</p> <p>3 the consumer instruction check list. That's something</p> <p>4 new, right, that we didn't discuss before?</p> <p>5 A. I believe that is a document that is</p> <p>6 specific to each case, yes, ma'am.</p> <p>7 Q. And you reviewed discovery responses by</p> <p>8 plaintiff and by defendant, correct?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Photographs of the washer and dryer,</p> <p>11 correct?</p> <p>12 A. Right. I reviewed the materials listed in</p> <p>13 my report, yes, ma'am.</p> <p>14 Q. Those also relate to individual facts of</p> <p>15 the case. Is there any relevant facts that you</p> <p>16 learned through review of the depositions and the</p> <p>17 facts related specifically to this fire in this case</p> <p>18 that were relevant to your opinion in the Brossard</p> <p>19 case that the warnings were inadequate?</p> <p>20 A. As I sit here, I don't recall any specific</p> <p>21 facts unique to the Brossard case.</p> <p>22 Q. Let me ask you about the Donahue case.</p> <p>23 A. Okay. Donahue.</p> <p>24 Q. And in this case, your general opinions</p> <p>25 about the adequacy of the warnings, do they differ at</p>	<p>1 outline for closed dryer transition duct, UL Standard</p> <p>2 2158 A--</p> <p>3 Q. How is that a criticism?</p> <p>4 A. It is my understanding and my recollection</p> <p>5 that metal foil duct was found to be used in the</p> <p>6 Donahue matter as a portion of their venting system.</p> <p>7 Q. You are saying that that is improper to</p> <p>8 use the metal foil duct, is that what you are saying,</p> <p>9 but the instructions allow for it? I am unclear on</p> <p>10 what your criticism is.</p> <p>11 A. Criticism is probably not the right word.</p> <p>12 But the installation instructions permit the use of</p> <p>13 metal foil duct, and it is my understanding that metal</p> <p>14 foil duct was used in the Donahue matter.</p> <p>15 Q. Okay. Anything about the facts of the</p> <p>16 Donahue matter that are relevant to your opinion in</p> <p>17 that case?</p> <p>18 A. I don't recall any specific, case-specific</p> <p>19 facts relevant to my opinions of the Donahue matter.</p> <p>20 Q. Let's talk about the Freeman case.</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Is there anything relevant in the facts,</p> <p>23 your review of the facts of the case, the deposition</p> <p>24 testimony or any of the inspection documents or photos</p> <p>25 that were relevant to your opinions in the Freeman</p>
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<p>1 all from the Brossard or Blake case?</p> <p>2 A. Generally my recollection is no, with</p> <p>3 respect to the warning regarding cleaning the interior</p> <p>4 of the dryer is unlikely to be followed. And also</p> <p>5 with regard to my third opinion in the Donahue matter,</p> <p>6 the lack of user feedback related to lint accumulation</p> <p>7 are generally the same between the Blake and Brossard</p> <p>8 matters. However opinion 2 in the Donahue matter is</p> <p>9 different than either of those.</p> <p>10 Q. And how so? I see that there. Yes. I</p> <p>11 did know that.</p> <p>12 Your opinion is that installation</p> <p>13 instructions for the subject dryer are permissive of</p> <p>14 the use of metal foil-type duct to be used as part of</p> <p>15 the dryer vent system provided the metal foil-type</p> <p>16 duct complies with UL Standard 2158.</p> <p>17 What is your criticism of that?</p> <p>18 A. On Page 3 of the Kenmore installation</p> <p>19 instructions, in column 2, I provided a representation</p> <p>20 of that page in my report and called out a portion of</p> <p>21 text in column 2 that says in Canada and United States</p> <p>22 if the metal foil-type duct is installed it must be of</p> <p>23 a specific type identified by the appliance</p> <p>24 manufacturer as suitable for use with clothes dryers,</p> <p>25 and in the United States must also comply with the</p>	<p>1 matter?</p> <p>2 A. I believe all the documents I reviewed in</p> <p>3 the Freeman matter are listed under my report and I</p> <p>4 don't recall any case-specific facts as it relates to</p> <p>5 my opinions in the Freeman matter.</p> <p>6 Q. Does the fact that Mrs. Freeman testified</p> <p>7 she never looked at the product literature after</p> <p>8 buying the product have any relevance to your opinion</p> <p>9 about adequacy of the warnings?</p> <p>10 A. My recollection of Mrs. Freeman's</p> <p>11 testimony is that she did not review -- as you have</p> <p>12 stated -- did not review the installation instructions</p> <p>13 as it relates to the subject dryer.</p> <p>14 Q. So does that have any relevance to --</p> <p>15 well, strike that. Let's move onto the next case,</p> <p>16 Holt.</p> <p>17 A. Holt.</p> <p>18 Q. Is there anything that differs in this</p> <p>19 opinion from your general opinions here from the</p> <p>20 previous opinions, previous cases?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. What is that?</p> <p>23 A. Opinion 1 on Page 4 of my report for the</p> <p>24 Holt matter.</p> <p>25 Q. Okay.</p>

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<p>1 A. Is that the subject dryer had been 2 installed in the Holts' home for approximately 18 3 months at the time of the fire. 4 Q. And the relevance of that is what? 5 A. Is the guidance to have your dryer 6 serviced every 18 months was not sufficient to have 7 the Holts avoid this accident. 8 Q. Do you know where the Holts purchased 9 their dryer? 10 A. I do not recall exactly where the Holts 11 purchased their dryer, no, ma'am. 12 Q. Do you know if the dryer was new when the 13 Holts purchased it? 14 A. I do not recall if the dryer was new when 15 the Holts purchased it. 16 Q. Do you know if it had been serviced prior 17 to the Holts obtaining it? 18 A. I don't recall at this time if the dryer 19 had been serviced prior to the Holts obtaining the 20 subject dryer. 21 Q. Do you know what the cause of the fire in 22 the dryer was? 23 A. As it relates to the Holt matter, I do not 24 recall. 25 Q. Do you know if the dryer was installed</p>	<p>1 the 2004 edition of the standard. And in that 2 standard on Page 23 it provides explicit language 3 requirements with regards to the on-product markings. 4 Q. And how does the language differ? Does it 5 differ materially? I will ask you that question. 6 A. Yes, ma'am. 7 Q. And how does it differ materially? 8 A. With respect to 7.1.2.13.a, within that 9 statement in the standard, it states that the warning 10 label, that the appliance should be marked with a 11 statement that says risk of fire, a clothes dryer 12 produces combustible lint. The dryer must be 13 connected to an exhaust to the outdoors in the 14 installation instructions. 15 Q. Doesn't it say you can say risk of fire or 16 its equivalent? 17 A. Yes, ma'am. It does state you can say 18 risk of fire or its equivalent. 19 Q. Don't we say that to avoid fire hazard, is 20 that equivalent in your opinion? 21 A. The information to avoid fire hazard is on 22 the label 1317150009709, yes, ma'am. 23 Q. But is it your opinion that that is a 24 material difference and that they are not equivalent? 25 A. The statements to avoid fire hazard and</p>
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<p>1 correctly? 2 A. As it relates to the Holt matter, I don't 3 recall. 4 Q. The next case is Larson. 5 A. Larson. 6 Q. How about this case, is there anything, 7 any opinions in this case that differ from the other 8 cases? 9 A. With respect to the Larson matter, opinion 10 2, is that the on-product labels do not address the 11 fire risk as required by UL 2158. 12 Q. What does 2158 require? 13 A. As I stated in my report of UL 2158 has a 14 requirement in Section 7.1.2.13.a and 7.1.2.13.b 15 regarding on-product labeling. 16 Q. All right. And how does it fail to comply 17 with these? 18 A. May I pull some materials from my file? 19 Q. Sure. 20 A. Okay. 21 Q. Go ahead. 22 A. It is my understanding from the materials 23 I was provided in the Larson matter there was two 24 on-product labels which are covered by UL 2158 and I 25 believe the relevant standard is in my report. It is</p>	<p>1 risk of fire are equivalent my opinion. 2 Q. So it is not really a material difference 3 from 2158. 4 A. My opinion is that in the portion of the 5 label that addresses the other statements referenced 6 in 7.1.2.13.a that the risk of fire should have been 7 included as part of that caution statement for the 8 consumer. 9 Q. Okay. All right. Isn't there another 10 part to this, too? Does it not use the signal word 11 warning does not comply with 2158? 12 A. That was in reference to a different 13 label. 14 Q. On a different label, label 1317854009810? 15 A. Correct. 16 Q. Does the UL allow for the word caution, 17 correct? 18 A. UL in 7.1.2.13.b allows for the use of 19 "caution." 20 Q. But we used the word warning, right? 21 A. Yes, ma'am. 22 Q. Are you saying that that is -- our use of 23 the word "warning" renders the label inadequate as 24 opposed to the word "caution"? 25 A. I wasn't trying to address the adequacy of</p>



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1 the warning with my statement in my report. I was  
2 just trying to call attention to the fact that the  
3 standard requires the use of the word caution and on  
4 this label 131785400 that that is not the correct  
5 signal word.

6 Q. Okay. And then your statement above the  
7 title of that paragraph says, The on-product labels do  
8 not address the risk of fire as required by UL 2158.  
9 That's not accurate, right? It just does not state  
10 risk of fire.

11 A. With respect to which label?

12 Q. The one above it, label 1317854009810.  
13 Sorry. Yeah. 131715009709.

14 A. Okay. It is my opinion to be in  
15 compliance with UL 2158 7.1.2.13.b that a label  
16 131785400 needed to include the risk of fire as part  
17 of the language used.

18 Q. Anything else about that report or about  
19 that case that is different than the other cases?

20 A. I don't recall any other differences at  
21 this time.

22 Q. Do you recall Mrs. Larson complaining of  
23 marks on her clothing obtained during the drying  
24 process that she believed were the result of the dryer  
25 being too hot?

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1 A. I do recall some of Mrs. Larson's  
2 testimony to that effect, yes.

3 Q. So your statement that there were no prior  
4 problems with the dryer that would have alerted her,  
5 did that include this issue that she experienced the  
6 waffle marks on the clothes?

7 A. We have gone over a lot of matters today.

8 Q. Sure.

9 A. One of my recollections and I can't  
10 remember if it is -- I do not recall at this time.

11 Q. I understand. Let's talk about the  
12 McCants -- no. Did we do Kucharskis?

13 A. Kucharskis.

14 Q. Have you found it?

15 A. Yes, ma'am.

16 Q. Is there anything different in this report  
17 than in the other reports that is specific to the  
18 Kucharski case?

19 A. On Page 6 of the Kucharski matter, when  
20 discussing the servicing, maintenance activities  
21 performed by the Kucharskis, I identified some of  
22 their deposition testimony regarding vacuuming the  
23 exhaust vent piping from the exterior of the home on a  
24 yearly basis and vacuuming the interior of the lint  
25 screen housing.

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1 Q. And the relevance of that is what?

2 A. That the Kucharskis in this matter did  
3 perform some dryer maintenance activities beyond  
4 simply just cleaning the lint screen for their  
5 Electrolux dryer.

6 Q. Anything else that is different in this  
7 case from the other cases?

8 A. I don't recall at this time.

9 Q. Then let's talk about the McCants report.

10 With respect to the McCants case, is there anything in  
11 particular in this, in your report in this case?

12 A. Generally the opinions are the same in  
13 McCants as many of the other reports. Specifically,  
14 again, in McCants as we have already talked about,  
15 that the on-product label does not address the risk of  
16 fire as required by UL 2158 is part of my analysis for  
17 the McCants matter.

18 Q. Other than the UL 2158 discussion we have  
19 had about those two reports, do you agree that  
20 Electrolux complied with all applicable standards,  
21 including UL and ANSI?

22 A. Can you please be more specific in the  
23 documents you are identifying.

24 Q. No. I am just asking you. Do you have an  
25 opinion that they did not comply with UL standards or

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1 the ANSI standards with respect to warnings on their  
2 products?

3 A. I believe I have identified the issues I  
4 wished to raise with regard to the UL 2158 standard.  
5 With regards to an ANSI standard which we haven't  
6 identified, I have no opinion.

7 Q. And for your testimony today and through  
8 your written reports that we have looked at here, have  
9 we encompassed -- did that encompass all of the  
10 opinions that you intend to give in these cases?

11 A. I believe that we have covered my opinions  
12 in this case, these matters, yes, ma'am.

13 Q. And here is the Haroutounyan case. Let me  
14 ask you if you want to look at this. I don't care if  
15 we mark it or not. But that's signed by Mr. Dorris.  
16 Did you help draft that? Correct?

17 A. I assisted Dr. Dorris in the preparation  
18 of this report, yes, ma'am.

19 Q. Is there anything in there that -- well,  
20 let me back up. That's similar to your report in this  
21 case, correct?

22 A. Similar to my reports in all eight of  
23 these matters, yes, ma'am.

24 Q. And from the time that you helped  
25 Dr. Dorris draft that report, did you have any -- if

<p style="text-align: right;">Page 185</p> <p>1 you can recall -- any additional or different opinions</p> <p>2 about any of the matters stated in there?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. What are they?</p> <p>5 A. I believe --</p> <p>6 Q. Let me back up. Do you have any different</p> <p>7 opinions that are contrary to what Dr. Dorris stated</p> <p>8 in that report?</p> <p>9 A. I don't believe my analysis in the reports</p> <p>10 reviewed today -- I believe my eight reports we</p> <p>11 reviewed today reach similar conclusions as</p> <p>12 Dr. Dorris, but I also hold case-specific opinions in</p> <p>13 these eight matters.</p> <p>14 Q. Let me ask you with respect to the cost of</p> <p>15 compliance, we talked about -- can you tell me what</p> <p>16 the actual costs are involved in these cases?</p> <p>17 A. The actual cost with regard to what?</p> <p>18 Q. The cost of compliance that you address in</p> <p>19 your report.</p> <p>20 A. I think we have discussed at several</p> <p>21 different times today there is a monetary cost and</p> <p>22 also a cost in terms of time, effort, and energy that</p> <p>23 an individual must exert to comply with these</p> <p>24 warnings.</p> <p>25 Q. Do you know what the monetary costs would</p>	<p style="text-align: right;">Page 187</p> <p>1 have reviewed additional documentation; is that right?</p> <p>2 A. Yes, sir. We have received a substantial</p> <p>3 amount of documentation within the last few days.</p> <p>4 Q. Some of that is deposition transcripts</p> <p>5 from Electrolux employees.</p> <p>6 A. Yes, sir. Those are not covered in the</p> <p>7 materials reviewed for my report.</p> <p>8 Q. They are in the files in the documentation</p> <p>9 that were provided to counsel today.</p> <p>10 A. Yes, sir.</p> <p>11 Q. Anything in those documents that would</p> <p>12 cause you to have different opinions than what you set</p> <p>13 forth in your reports?</p> <p>14 A. From the documents I have reviewed so far,</p> <p>15 I do not believe they would cause me to have different</p> <p>16 opinions. But some of the testimony may provide</p> <p>17 additional bases for my opinions in the future.</p> <p>18 Q. And you have been provided the reports</p> <p>19 from Dr. Christine Wood; is that right?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Have you had a chance to review those in</p> <p>22 detail?</p> <p>23 A. I have read them. I haven't had the</p> <p>24 opportunity to do a thorough analysis of those reports</p> <p>25 at this time.</p>
<p style="text-align: right;">Page 186</p> <p>1 be?</p> <p>2 A. I believe in one of the Larson depositions</p> <p>3 I was recently provided, it suggests that if they were</p> <p>4 called that the cost would be around a hundred</p> <p>5 dollars.</p> <p>6 Q. Let me ask you briefly, have we marked</p> <p>7 this as an exhibit?</p> <p>8 A. Yes.</p> <p>9 Q. Do you contend that Electrolux dryers are</p> <p>10 unreasonably dangerous?</p> <p>11 A. That seems too broad. It would also seem</p> <p>12 to be outside of my area.</p> <p>13 Q. I think with that, that's all the</p> <p>14 questions I have for you today. Thank you very much.</p> <p>15 Let me go back on the record. Do you plan</p> <p>16 on doing any additional work in these cases?</p> <p>17 A. Not at this time.</p> <p>18 Q. If you do have an additional or different</p> <p>19 or whatever opinion that you will let us know and then</p> <p>20 we can reschedule.</p> <p>21 A. Yes, ma'am.</p> <p>22 EXAMINATION</p> <p>23 BY MR. BOERIGTER:</p> <p>24 Q. I just have a couple of questions.</p> <p>25 Now, since the date of this report, you</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. And if you are called to testify at trial,</p> <p>2 you might be asked questions about Dr. Wood's report.</p> <p>3 A. Yes, sir.</p> <p>4 Q. We have not covered that today; is that</p> <p>5 right?</p> <p>6 A. Yes, sir. We have not covered those</p> <p>7 reports today.</p> <p>8 Q. I know there was a lot of questions today</p> <p>9 and a lot of hypotheticals and other things that you</p> <p>10 went over today. As we sit here at the end of your</p> <p>11 deposition today, any reason to believe that you have</p> <p>12 different opinions than what you set forth in your</p> <p>13 reports?</p> <p>14 A. No, sir, not at this time.</p> <p>15 Q. Have you changed any of your opinions</p> <p>16 based on the questioning today from what was set forth</p> <p>17 in your reports?</p> <p>18 A. No, sir.</p> <p>19 MR. BOERIGTER: That's all I have.</p> <p>20 RE-EXAMINATION</p> <p>21 BY MS. BIERNAT:</p> <p>22 Q. I need to know which depositions you</p> <p>23 received that are not contained in your reports.</p> <p>24 A. These items are identified in the exhibits</p> <p>25 that have been marked.</p>

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<p>1 Q. That's the same for each case?</p> <p>2 MR. BOERIGTER: The new ones might be the</p> <p>3 same.</p> <p>4 THE WITNESS: The materials reviewed for</p> <p>5 each matter are listed on the file listing which</p> <p>6 has been marked, for example, in the Blake matter</p> <p>7 5-A and then most recent depositions received</p> <p>8 which I believe are all -- most, the majority of</p> <p>9 them Electrolux employees -- are Chris Adams, Jay</p> <p>10 Bjerke, Shelley Clausen, Steve Joerger, and Scott</p> <p>11 Harder.</p> <p>12 Q. (By Ms. Biernat) When did you receive</p> <p>13 them?</p> <p>14 A. I believe they were provided by counsel on</p> <p>15 Monday. Monday, I believe, of this week.</p> <p>16 Q. Have you reviewed all of those?</p> <p>17 A. Yes, ma'am. I have read all of those</p> <p>18 depositions.</p> <p>19 Q. Did you take any notes when you reviewed</p> <p>20 them?</p> <p>21 A. Yes, ma'am. I believe I provided those to</p> <p>22 you.</p> <p>23 Q. Your annotations from these?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. And off the top of your head right now,</p>	<p>1 opportunity to provide thorough analysis of all those</p> <p>2 materials.</p> <p>3 Q. So none of those other documents have any</p> <p>4 bearing on your opinions at this moment because you</p> <p>5 haven't looked at them.</p> <p>6 A. I don't believe they have influenced what</p> <p>7 we have talked about today, no, ma'am.</p> <p>8 Q. So with that caveat I am going to ask you</p> <p>9 if they do influence what you talked about, you will</p> <p>10 let me know.</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. We can go from there.</p> <p>13 A. Yes, ma'am.</p> <p>14 MS. BIERNAT: That's it.</p> <p>15 MR. BOERIGTER: I don't have anything</p> <p>16 else.</p> <p>17 (Deposition concluded at 4:08 p.m.)</p> <p>18 (Pursuant to Rule 30(e) of the Federal</p> <p>19 Rules of Civil Procedure and/or O.C.G.A.</p> <p>20 9-11-30(e), signature of the witness has been</p> <p>21 reserved.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 can you advise me how any of those depositions have</p> <p>2 informed your opinions in this case?</p> <p>3 A. Not citing to specific pages and pieces of</p> <p>4 testimony, Shelley Clausen identified that she</p> <p>5 considered the instruction to clean the dryers at an</p> <p>6 18-month interval to be an instruction and not a</p> <p>7 warning.</p> <p>8 I believe it was Steve Joerger who</p> <p>9 testified that he informed the customer service</p> <p>10 representatives when individuals called the 1-800</p> <p>11 number that individuals experiencing issues needed to</p> <p>12 clean the lint filter and their exhaust system but did</p> <p>13 not include an instruction to clean the interior of</p> <p>14 their dryer. There may be others, I just can't recall</p> <p>15 at this time.</p> <p>16 Q. And those, you did not review those at the</p> <p>17 time you came to your conclusions in this case or</p> <p>18 drafted your reports?</p> <p>19 A. No, ma'am. Those were provided after that</p> <p>20 time.</p> <p>21 Q. Is there any other information that is not</p> <p>22 identified in your reports that you have considered,</p> <p>23 reviewed, or relied upon in this case?</p> <p>24 A. As I have stated we received a lot of</p> <p>25 documents very recently and I have not had the time,</p>	<p>1</p> <p>2 C E R T I F I C A T E</p> <p>3</p> <p>4 STATE OF GEORGIA:</p> <p>5 COUNTY OF FULTON:</p> <p>6</p> <p>7 I hereby certify that the foregoing</p> <p>8 transcript was taken down, as stated in the</p> <p>9 caption, and the questions and answers thereto</p> <p>10 were reduced to typewriting under my direction;</p> <p>11 that the foregoing pages 1 through 191 represent</p> <p>12 a true, complete, and correct transcript of the</p> <p>13 evidence given upon said hearing, and I further</p> <p>14 certify that I am not of kin or counsel to the</p> <p>15 parties in the case; am not in the regular employ</p> <p>16 of counsel for any of said parties; nor am I in</p> <p>17 anyway interested in the result of said case.</p> <p>18 This, the 7th day of April, 2014.</p> <p>19</p> <p>20</p> <p>21 RENDA K. CORNICK, CCR-B-909</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 DEPOSITION OF: ERIC J. BOELHOUWER, PH.D., CSP/RKC

Page No.      Line No.      should read:

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